

To My Beloved Parents

SAMUEL AND PEARL LAMM

**whose faith in me
I never doubted**

BOOKS BY NORMAN LAMM

FAITH AND DOUBT

Studies in Traditional Jewish Thought

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FAITH and DOUBT

Studies in Traditional Jewish Thought

by
Norman Lamm

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INTRODUCTION

FAITH, like life itself, is paradoxically both weak and strong. It is delicate, and sometimes falls apart at the slightest infection with doubt. At the same time, it is remarkably resilient, tenacious, and tough: it somehow manages to survive the heaviest onslaughts. Wounded, bruised, even humiliated, it often recuperates and regains its wholeness, its health, and its dignity. It may be extinguished in one place, only to flourish elsewhere.

The consciousness of both the fragility and the hardness of faith lies at the heart of this book, addressed to specific illustrations of the larger question of the encounter of religious faith with modern life and civilization. The faith is that of ancient Israel as it has come down from the Patriarchs through Moses, and from the Talmud to our own day. The writer is identified with what is generally called Orthodox or Traditional Judaism, or more narrowly, "Modern Orthodox Judaism" (an unhappy semantic hybrid!). But the words are addressed to a wider audience: to believing people of all faiths, to students of religion and philosophy, to the searchers and the curious, even to the skeptics and the scoffers.

The first chapter, which shares its title with the book as a whole, treats directly of the problem of faith and doubt, from the perspective of traditional Judaism. The other chapters examine the encounter of Judaism and Jewish religious philosophy with a number of challenges from the worlds of philosophy, science, law, morality, and sociology. What binds them together is not only common authorship, but, hopefully, a consistent point of view as to how Jewish faith reacts in its unceasing encounters with stimuli from without.

The eleven chapters here presented have appeared as studies, essays, and articles in a variety of learned journals and *Festschriften* during this past decade. Each of them has been revised (and in one case, translated from the Hebrew to English) before publication in this volume, partly in response to criticism by colleagues and readers, partly as a result of hindsight and second thought, and partly in an effort to update the original material to include more recent research that has come to light since.

The purpose and hope of the author in offering this work to the public may best be illustrated by a comment by one of the most profound personalities in Jewish history, R. Menahem Mendel, the Hasidic master of Kotzk. The Talmud teaches that God implores man to open himself up to Him. "If you open up to Me only the size of the point of a needle, I will open up to you like the gates of a great hall." Said the Kotzker: It is true, all God demands is an opening the size of a needle-prick. But like a needle, it must go through and through. . . .

The author can do no more than open up for his readers a few insights into Jewish thought, no larger than the point of a needle. He will be amply rewarded if the reader enters into but one or two of them, and goes on by himself—through and through, ever more deeply.

Norman Lamm

Jerusalem
January 9, 1971

THE BITTER WATERS OF TORAH

My brother and my friend! In truth, how bitter are the "bitter waters" [of Torah] that pass over us! For in the beginning, the Torah is itself yet bitter. The reason for this is that we may distinguish between one who has a true Israelite soul and one whose soul issues from the multitude that accompanied Israel out of Egypt. For "no stranger shall approach thereto," and the initial bitterness of Torah will discourage one who is disqualified from tasting of the precious sweetness of the light of Torah [that appears afterwards].

It is written in the book Berit Menuḥah that a scholar who denies the Torah and becomes a heretic, Heaven forbid, does so because some of the "bitter waters" passed over him and he drank from them and he was not able to bear it, and therefore he studied and he rejected.

It is unnecessary to state that at the beginning, when one first undertakes to serve God and to accept upon himself the yoke of Torah, that he tastes of the bitterness of death. Even a completely righteous person must submit to these bitter pains every day and every time and every hour, in order that he might thereby enter into the light of life and the way of the righteous.

Therefore, accept upon yourself all this bitterness, and the Almighty in His great compassion will let you taste of the pleasantness of the world-to-come while you are yet in this world. So will all this bitterness be transformed into sweetness, into light for the soul.

But above all, my brother, keep silent, keep silent. Accept all this in love. Then there will shine upon you the light of the King of all life.

(from *Netiv Mitzvotekha*, p. 80,
by R. Yitzḥak Isaac Yehudah Yehiel Safran,
the Rebbe of Komarno)

CHAPTER I

FAITH AND DOUBT

THE PROBLEM to which this chapter is addressed is of momentous importance: How can we affirm our faith in a world beset by doubt? How, in the encounter of traditional belief with modern thought, can we preserve both our integrity and our identity? How can we be academically and philosophically honest and yet religiously firm? How can we emerge from the dialogue between the two worlds which we inhabit with renewed conviction and stronger faith?

Troubling as this subject is for believers generally, it is doubly vexing for Orthodox Jews who are committed not only to an abstract faith, but to a way of life, a culture, a tradition, a people. Faith is not all a Jew needs, but without it everything else is in mortal peril. The issue of faith and doubt is thus, for the traditional Jew, fraught with awesome danger, demanding of him unmatched responsibility.

The problem itself is based on two presuppositions. First is an assessment of the realities of our times. This is not a religious age; nor is it an age of willful heresy. It is an era of confusion. But the confusion is not that of ignoramuses or of men who engage in trivialities; it is that of a generation which has suffered unprecedented agony as well as a massive intellectual displacement. For many contemporary men and women, God is irrelevant, and secularism triumphant; there no longer are any questions. However, for many others, the *will*-to-believe is alive, but not the commensurate *ability*-to-believe. Such people are intelligent and concerned, but they question the validity, the meaningfulness, and the relevance of organized religion to their situations.

Their doubts may concern specific dogmas or principles, such as the existence of a personal God, revelation, the validity of tradition, moral problems in the Bible, literary criticism, historical conditioning, relativism, etc., although the first of these is the most crucial. But their doubt is usually a more general and fundamental one: a challenge to the very meaningfulness of life itself. The individual questions are often but symptoms of a terrible meaninglessness breaking into their affirmations and cutting the ground from under them. No wonder that anxiety, existential anxiety, is the hallmark of our times. The anxiety caused by doubt and meaninglessness is, as Tillich has called it,¹ spiritual anxiety. Medieval Jewish thinkers knew this anxiety well, which is why they declared that there is no *simhah* (joy) that can equal that of the resolution of doubt. Life, as a continual quest for meaning, skirts on the very edges of the abyss of meaninglessness. Doubt is thus an integral part of the modern experience and, perhaps, may be said to characterize human life as such. A human being must think, and to think is to question, to probe, to criticize. Doubt reflects "the interrogatory, open-ended, aspiring character of our life."² We are naive if we think we can teach Judaism, especially to a young person, without encountering genuine doubt. And the doubts of our contemporaries cannot be stilled by shrill dogmatic assertions or by charming rhetoric, much less by superficial and artificial solutions which fool no one but their creators. Such problems in *emunah* (faith) exist, and we are going to have to meet them forthrightly, whether we like it or not, in our society, amongst genuinely committed and observant Jews, in our children—and in our own selves. Indeed, I am more concerned by how we approach doubt when it appears in our own community of the committed than the doubt which confronts us when we engage in a dialogue with the uncommitted. Anyone who has taught or discussed the fundamentals of Judaism with young Orthodox Jews can testify to the ubiquity of honest doubt, and to the catastrophic consequences of cowardice in dealing with it.

The following analysis of faith and doubt is not intended for those who are entirely alien to faith and religious experience,

waiting for someone to help them to doubt their doubts. Such a task had best be left to one whose own personal spiritual adventure has followed the route from agnosticism to affirmation, from without to within. What is here presented is addressed, rather, to one who locates himself within the circle of tradition and faith, and finds himself challenged, attacked, besieged by—and attracted to—the skepticism and denial that reign outside and beckon him to abandon his sanctuary and enter into the spiritual weightlessness without. He has, factually, entertained doubts, willingly or unwillingly, and he finds his world threatened. Has he, by virtue of his doubting, merely lost his innocence, or is he thereby automatically excluded from the community of believers? Can one legitimately, from the perspective of his Jewish faith, permit himself to be seized by doubts? If one has found—in the words of the Rebbe of Komarno, in the passage preceding this chapter—that the waters of Torah are bitter, bitter unto death, how long can he wait and “keep silent” in the confidence that the selfsame Torah will suffuse him with light and sweetness and life, with intellectual and spiritual serenity? It is to such individuals and in response to such questions that I speak in this chapter.

My second premise is that Judaism has a message of overarching significance to address to modern man who lives, not only in a “secular city,” but in a “secular megalopolis.” The insights of our tradition are straining for expression, waiting to be released, like the legendary picture of Messiah chained in Heaven and trying to break his shackles. Exactly what that message is and how it can be formulated in terms germane to the predicament of modern man—that I do not know. But I do know, to borrow the felicitous comment of Dr. Eliezer Berkovits (in a recent issue of *Tradition*), that Israel was not meant to be the *Neturei Karta* of the nations. If we have nothing to say to the world, we must stop talking. If we *have* something important to say, even if we only intuit it and are unsure about how to formulate it, we must keep trying. Then, even if we do a great deal of stammering, we ultimately will articulate that which will again distinguish us as the “light to the nations.”

We have, then, a vital message for modern Jews and modern man. But our audience is not hanging on our every word, waiting to be converted. It is tortured by doubt and, in this scientific age, it questions by training. We must proceed with the agonizing recognition that doubt is an ineradicable feature of our culture and our times. We dare not be distracted by fear or diffidence from an honest confrontation with the skepticism that prevails even amongst committed Jews in our days.

Two Attitudes

How has Judaism, historically, oriented itself towards the challenge of doubt? Obviously, doubt is not an invention of modern times. The High Priest who, according to the Talmud, became a Sadducee after eighty years, must have acted on the basis of doubts. "Do not believe in yourself until the day you die," the Rabbis counseled,³ demonstrating their awareness of the omnipresence of religious doubt.

Classically there were two approaches: First, there was *emunah temimah*, a direct, unquestioning, and unmediated faith in which doubt was consciously avoided—this was characteristic of most Jews throughout the ages. If it was philosophically unproductive, this simple faith nevertheless kept Judaism alive in the times of greatest stress. It is good to remember the testimony of the author of the *Or ha-Hayyim* about the readiness of such Jews of simple and uncomplicated faith to suffer martyrdom for Torah while many of their sophisticated, philosophizing brethren, during the Spanish Expulsion, took the easy way out and accepted baptism. Moreover, the most aggressive proponents of simple faith were not necessarily simple souls. Perhaps the most radical exponent of *emunah temimah* in fairly modern times was the Hasidic Zaddik, R. Nahman Bratzlaver; yet one need but read his writings, and the writings about him by his leading disciple and biographer, to realize that he was an extraordinarily complicated man who had suffered the worst torments of doubt, who had studied Maimonides' *Guide*, and who had struggled valiantly in order to achieve the blessed *temimut* which he recommended over the theological

sophistication for which he had such contempt. Simple faith is not the same as simplemindedness.

The second attitude was that of the great philosophical tradition of medieval Spanish Jewry. Highly rationalistic, it valued reason not only as a potent human instrument, but as the very sphere in which and by which man and God relate to each other. It was the saintly Bahya who reproached those who had the capacity and talent for a speculative approach to Judaism but who failed to undertake it.⁴ Doubts, according to this tradition, should not be brushed aside, but met head-on with the tools of metaphysical discourse.

Which of these traditional approaches must be ours in this third quarter of the twentieth century? Professor Harry A. Wolfson⁵ has analyzed the relations between Scripture and philosophy—in Islam and Christianity as well as in Judaism—as conforming to one of three classes: the “Single-faith Theory of the Authoritarian type”—such as the first tradition we mentioned as exemplified by R. Naḥman of Bratzlav; the “Single-faith Theory of the Rationalist type”—that which we attributed to Bahya; and the “Double-faith Theory,” according to which true faith is assent to Scripture whether with the aid of philosophy or without it.

It is this Double-faith Theory which I accept in principle—but the rationalist aspect of it (though not necessarily the rationalist philosophy *per se*) which I consider most important for our times. I would never, Heaven forbid, disturb the unquestioning faith of any Jew who is comfortable in his convictions. There is no *mitzvah* to agonize over theological problems, whereas, according to many Rishonim, it is a *mitzvah* to believe fully and totally in God.

Nevertheless, it is self-deceiving to imagine that any significant number of Jews belong in this category. In an age of instant worldwide communication, where every stray remark of casual *apikorsut* is trumpeted forth throughout the world as a sensational discovery of revolutionary import, and when so many people are graduates of colleges where their instructors delight in shaking them loose from any religious convictions and moral moorings—in an age of this sort, simple, wholesome,

unquestioning faith has largely vanished. When faith is come by today, it must struggle relentlessly in unending tension with doubt. So many faiths, both religious and secular, have proved disappointing, that many a thoughtful man is afraid to give himself wholeheartedly to anything, lest such dedication lead to more frustration and heartache. Until two or three generations ago, for most Jews, faith might have been an *event* which, once achieved or born into, became a *state*. Now it is an elusive *goal*, and religious belief is a *process* that requires constant renewal. I do not say that this is a good thing that ought to be encouraged. But I do believe that we ought not waste our energies bemoaning the situation.

We affirm, therefore, the validity of the faith of those who are unaware of or choose to ignore the intellectual challenges of modern life. The prevalence of doubt does not invalidate the faith of those who do not experience it. But our major concern must be with those many who are aware of, and who will not ignore, the confusing, questioning, and challenging world. Most of us belong to that second category, whatever our personal inclinations.

Three Forms of Faith

In order for us to construct a methodology for dealing with doubt within the context of faith, it is necessary first to analyze what faith is or, more modestly, the major areas and types of faith. It should be unnecessary to state that when we establish specific categories of faith we do not intend them as rigid compartments which are mutually exclusive. One category flows into the other, and man can live on several levels at once. Nevertheless, for analytic purposes it is advisable to subdivide the faith commitment into its components.

Philosophers of religion have observed that the word "faith" covers a number of types or categories of religious existence. Thus Martin Buber speaks of *Two Types of Faith*—the name of one of his books. One is a state of *acknowledgment*, in which I accept, with my whole being and not only my reason, certain propositions as true. The other is a relationship of *trust*

where, again not necessarily with sufficient reason, I commit my confidence in another.

For our purposes, let us sharpen that distinction. The first, that of acknowledgment, is a *cognitive* type of faith, in which I intellectually accept certain propositions as true—such as the existence and unity of God—whether or not I can offer convincing logical proof for my conviction. This is a “belief-that” type of faith; *that* God exists, *that* He is One, *that* He is incorporeal. The content of this faith is noetic, its mode is intellectual. The second type, that of *trust*, is not “belief-that” but “belief-in.” Regardless of the thoughts I entertain *about* God, regardless of my theology and the dogmas I affirm, I believe *in* Him: I trust and esteem Him. This is the area not of propositions but of relationship; it is not existential in the logician’s sense, but existential in the existentialist’s sense.⁶ Of course, as has recently been pointed out,⁷ some forms of “belief-in” can be reduced to “belief-that.” Belief in fairies, for instance, is just another way of affirming *that* fairies exist; no relationship of trust is implied in such belief. Nevertheless, there are some forms of “belief-in” that transcend, and are irreducible to, propositional statements of the cognitive type. Belief in a friend, for instance, is more than a statement about a friend’s existence and character; it is expressive of a direct and unmediated relation of trust.

Now, this second category, that of trust and “belief-in,” can be subdivided into two other classes. Trust can be expressed as an emotional investment in another; it involves warmth, affect, and affection. And trust can be expressed in action, in the willingness to pursue a certain course of conduct at the behest of the one in whom I have faith-trust, even to the point of sacrificing my life if he should demand it. The first type of faith, that of acknowledgment and “belief-that,” the assent to a set of metaphysical or axiological propositions, we shall refer to as *Cognitive Faith*; the second, the emotional form of trust or belief-in, as *Affective Faith*; and the third, or behavioral form of trust, as *Functional Faith*.⁸

The cognitive form of faith is the acceptance and pursuit of certain truths about God and His relation to the world

and to man. The prophet Jeremiah sets the word *emunah* in opposition to *shekker*, falsehood;⁹ its real meaning, therefore, is the affirmation of a truth. Etymologically, the word *emunah* is related to *emet*, truth.¹⁰ From *emunah* there is derived an intermediate form, lost to us, in which *he'* changes to a *tav*: *emenet*. The *nun* falls away, as it often does in Hebrew, yielding *emet*. (This is analogous to the derivation of the Hebrew word for "daughter" from the word for "son": *ben*, *benet*, *bat*. Cognate languages, such as Aramaic and Arabic, retain the intermediate form.) The conceptual quality of *emunah* is evidenced by the confusion of the terms *emunah*, *daat*, and *madda* (the last two are forms of *yadoa*, to know) in medieval Jewish philosophy.¹¹ Indeed, "faith" for Saadia, Maimonides, and the other great sages of medieval Jewish philosophy was understood as it was defined by Aristotle: the final step in the act of learning or knowing. As such, faith is a general epistemological act and by no means a particularly "religious" category. There is, in this form of faith, no promise or expectation of peace and serenity and closeness of God. Cognitive faith is an epistemological phenomenon, an *emunah* or belief-that certain information is true.

Affective faith is personal and emotional, bespeaking a sense of trust, reliance, dependence, and hope. While logically it may presuppose assent to certain propositions, it is, by itself, an existential phenomenon. The Hebrew word *bitaḥon* may best describe affective faith: the desire for, reliance on, and support in the *mivtaḥ*,¹² the fortress of strength and succor that God is and provides for man. It involves a quest for peace, for tranquility and, above all, for meaning. It is interesting that in the end of the *Shaar ha-Bitaḥon* of Baḥya's *Ḥovot ha-Levavot*, where he discusses what we have called affective faith, he lists ten synonyms for *bitaḥon*—and *emunah* is *not* one of them!

The third is functional faith.¹³ It is a faith which expresses itself in doing, in behavior. This too is a matter of trust, in the sense of trustworthiness. I trust God to the extent that I will live by His *mitzvot* and, if need be, die for them. God is *faithful* in that He is concerned with me and values

my obedience. This form of *emunah* is related to *ne'emanut*, trustworthiness. God is deserving of my confidence on which I base my life and for which I undertake to bear the yoke of His commandments. Thus, *va-yehi yadav emunah*¹⁴ means that the hands of Moses were firm, trustworthy, they did not fail or betray the trust placed in them by the Israelites. So, too, *emunah* in God means that we function according to the divine will, i.e., halakhically, and trust God's commands and providence.

(Interestingly, while other religions are much concerned with the relation of Faith and Works, Judaism considers only the question of *Study* and Works. *Emunah* and *maaseh* are not conceived of in over-against terms, requiring an analysis of their relationship and perhaps a preference for one over the other. Faith and works—*emunah* and *maaseh*—are indissolubly intertwined: right conduct, the life of Halakhah, is a functional manifestation of *emunah*, and reciprocally, inspires the trust which informs it. It is study—*talmud torah* in its broadest sense, which includes metaphysics and theology¹⁵—which can be analyzed in relation to *maaseh*, as it was in the famous debate in Lydda in the days of R. Akiva and R. Tarphon: "Is study greater or is practice greater?"¹⁶ Study and works can be counterposed, for both are parallel forms of faith—respectively, the cognitive and the functional.)

There are, then, three types of faith or, better, three manifestations of faith, for faith is something which must grasp the *entire* being and cannot be absolutely dissected.

What, now, is doubt that we can discuss it in the context of, rather than as the antithesis of, faith? Doubt is not denial, any more than assent is faith. *Safek*, doubt, must not be equated with *kefirah*, for the latter, denial, is itself a conviction.¹⁷ Doubt is, however, the openness to the possibility of denial; it is a state of suspension between *emunah* and *kefirah*.

Three Types of Doubt

Religious doubts may be classified into three categories: *spurious*, *methodological*, and *substantive*.

A doubt is spurious if it does not issue from a question that expresses an authentic concern for the truth. A genuine doubt must be a question that arises from a quest, not a specious excuse that spares the doubter the need to commit himself. It must be critical not only of the object of its concerns, but of itself as well, lest it be no more than an irresponsible evasion of the need to take a stand. We shall not here bother with what has been called "dogmatic skepticism"—the sophistic contention that there is no meaning to "truth" and "falsity" because all judgments are a matter of mere opinion. The real skeptic is, of course, an entirely different sort of person. The Greek *sképtomai* meant to watch and search closely; the *skeptikós*, therefore, is a particularly careful investigator, not one who rejects ideas and proofs on principle. The object of his search is truth, not doubt.¹⁸ The spurious doubter, however, seeks not to discover truth but to avoid both it and the passion to which it obligates him. His independence of thought is a fraud, and his emancipation a sham. "O Liberty," writes Ogden Nash, at the end of a poem recently published, "how many liberties are taken in thy name!"

The second type of doubt is the methodological self-restriction of the believer in the process of strengthening his faith so that it may withstand criticism. He isolates the doubt and examines it, as a surgeon would a diseased organ, without affecting the rest of the body of his faith. It may be transformed into substantive doubt, but by itself it is the necessary means for achieving greater and more authentic religious knowledge. Of course, it may also revert to spurious doubt, to a completely unconcerned detachment, which in matters of religion is no more than posturing. It "implies an a priori rejection of the religious demand to be ultimately concerned. It denies the object which it is supposed to approach 'objectively.'"¹⁹ Unconcerned detachment is the pseudo-question of the professor of comparative religion; the concerned questioning of the methodological doubter is the mark of the authentically religious man who wishes to retain his full critical powers.

Is there any sanction for such methodological doubting in

Judaism? Jewish philosophers have discussed many individual doubts—the whole range of challenges to Judaism in the world in which they lived. The very need to formulate responses implied the existence of questions, no matter what their intrinsic worth. But the first, and perhaps only, Jewish thinker who discussed doubt as such was R. Saadia Gaon in the introduction to his *Emunot ve'Deot*. In the phenomenology of the Gaon, doubt is not considered the key to all knowledge as it was later by Descartes. But the Cartesian formulation, *de omnibus dubitandum*, is only a more radical statement of the same methodological doubting. For Saadia, doubt is the subjective correlative of objective error, even as faith is the subjective correlative of objective, scientific fact. A doubt which remains imbedded in the mind permanently is damaging. *Safek*, for Saadia Gaon, is essentially a lack of knowledge, the result of ignorance. It has no intrinsic value.

Nevertheless, Saadia does have something good to say about doubt. If it is devoid of inherent worth, at least it possesses value as a means of acquiring truth. All of learning is the successive removal of doubts. Certainty can be attained, but only by means of doubts which are conquered, and doubt therefore has instrumental significance. The *safek* is not an intrinsic good, but once it is there it can be used. In other words, Saadia approves of methodological doubt, if only as a necessary evil.²⁰

Substantive doubt is more than a technique; it is a condition of life. In methodological doubt, I possess and direct the question; in substantive doubt, the question possesses and directs me. In the former I place the doubt in "brackets," and work on it dispassionately, while my faith itself remains serene and undisturbed. In the latter, doubt has broken into my life, much against my will, has created havoc with my peace of mind, and leaves me in a state of anxiety, of spiritual hysteria. Methodological doubting is doubting by the clock: at certain times I focus my attention upon questions and challenges, at other times I dismiss them from my attention; in the college classroom or laboratory I work within my brackets, doubting and even rejecting any supernaturalistic suppositions, and

when I return home or pray I am in a state of undoubting faith. The categories of faith and doubt, in this case, remain mutually exclusive even though there is a certain relationship and tension between them. Substantive doubt, however, co-exists with faith in the same person and at the same time. It may sound like a denial of the first axiom of logic—that two opposites cannot be true at the same time—but phenomenologically both can be observed to occur simultaneously.²¹ One may debate the desirability of methodological doubting, but it is irrelevant to ponder whether we ought or ought not engage in substantive doubt; *it* engages *us*, rather than the other way around. I believe that existentialists go too far when they universalize what we have called substantive doubt and declare it a permanent feature of thinking men, and even consider it a desideratum of authentic religious existence. But I believe that it is quite obviously a widespread phenomenon of the times in which we live.

Now, in either case, in order to be religiously authentic and psychologically sound, doubt must be profoundly teleological: one doubts for the sake of truth. In methodological doubting, I propose and wield the doubt for the sake of discovering the truth; in substantive doubting, the doubt that grasps me issues from my fear for the sake of truth, my concern with meaning, my terror of axiological emptiness.

Furthermore, the state of tension between faith and substantive doubt arises from the fact that (and one may infer this from Saadia's analysis of methodological doubt) faith and doubt presuppose each other. The statement *ani maamin* ("I believe") is a pious superfluity unless there had existed at least a hypothetical skeptic who questioned or denied what I now affirm. A statement of faith is more than the assertion of a dogma or principle for the sake of structuring a theology. It is the creation for myself of a new spiritual orientation, the acknowledgment of a metaphysical entity, against the background of its possible absence. This absence is the doubt presupposed by faith. The converse is equally true. The doubt of truth is possible only in the presence of the consciousness of and the desire for truth. As a positive act, doubt is mean-

ingful only when it engages a meaningful affirmation of a truth, i.e., the faith which it questions.

Expanding on Saadia

We have seen that Saadia recognizes methodological doubting within the realm of cognitive faith. Begrudging though this sanction is, Saadia's authority is still sufficient warrant for the observant Jew to work on the frontiers of knowledge, both scientific and humanistic, even though the doctrines and the inner logic of his disciplines may cause him to entertain certain religious doubts. Quite another problem is raised, however, by substantive doubt within the confines of conceptual or cognitive faith. Can we extend Saadia's reasoning to cover this as well? And can we offer any more approval to methodological doubting than Saadia, for whom doubt remains in the ignominious position of the subjective correlative of error and ignorance?

For Saadia Gaon, as well as for other Jewish medieval rationalists, faith was defined as it was by Aristotle: a purely epistemological act, the final step in the process of learning or knowing. I am subjected to one of four sources of knowledge: immediate sensory experience, a priori axioms, logically derived information, or reliable tradition; and when I accept as valid what my senses or mind behold, that is faith. The information which I thus accept may be the number of apples in a bushel or the results of a differential equation; it is not by any means limited to religious knowledge, although it includes it. The inclusion of such religious information as part of the order of facticity is in line with the rationalists' confidence that the existence of God can be proven by unaided reason. Not only did Saadia hold such propositions as the existence, unity, and justice of God to be verifiable, but he maintained that most of the Torah could have been attained by means of human intellectual effort alone, and without revelation. Therefore, faith is a universal epistemological phenomenon, and not primarily a theological one. If, then, faith is the subjective acceptance of objective data such as apples, equations, or the divine creation of the world, then doubt represents the absence of knowledge, an impediment to knowing with certainty. It is

a temporary state of ignorance that can be overcome, in favor of certainty, by study.

Today, however, we can no longer uncritically consider religious propositions as no different from either the scientific description of sense-data or logically verifiable statements. Since Kant, despite some recent heroic efforts, we do not usually accept the validity of the classical "proofs" of God's existence, or any of their several modifications. Faith, therefore, is accepted in its narrower, theological sense as religious faith. Even when faith is defined cognitively, it is not identical with Saadia's epistemological acceptance of sensory or rational information. Certainly we need not go as far as some religious thinkers—including some Orthodox Jews in Israel—in asserting that Judaism has *no* cognitive content and that its assertions about man and the world have only symbolic significance (a discussion of this theory will take us too far afield). But it will suffice to say that, in most cases, the cognition of religion differs from ordinary cognition in the nature of the material cognized. The knowledge of God is radically different from the knowledge of the chemistry of hydrocarbon compounds. The cognitive statement "And God separated the waters above the firmament from the waters below the firmament" is not of the same order as "And George distilled the rain water." The object of cognition in one case is a fragmented, objectified bit of reality, and in the other that which, as Tillich has put it, refers back to matters of ultimate concern. To the extent, then, that cognitive faith is different from other kinds of cognition, to the extent that the contents of the concepts affirmed religiously are different from the contents of other concepts, to that extent is doubt removed from the matrix of objective-truth-and-error, and to that extent is doubt more than just the subjective correlative of objective error.

Our second step in expanding Saadia's sanction of doubt within faith is to recognize that not only is the object of cognitive faith different in religious faith from that of ordinary knowledge, but the relation of the knower to the knowledge is different in religious cognition from that of other forms of cognition. To put it somewhat differently, cognitive faith ex-

presses an I-It relation to God. (See note 8, page 35.) Now, not only is the nature of the It different in religious faith from other forms of faith (in Saadia's sense), but the response of the I to the It is different in religion from other kinds of knowledge.

One need not accept *in toto* the existentialists' view in order to appreciate that they have made some permanent contributions which cannot be ignored. Saadia, and those who followed him, lived and thought in an intellectual milieu which identified abstract truth with reality, and his creative interpretations were achieved within this context. Today, however, existentialism has taught us to understand man by cutting below the cleavage between subject and object which has characterized Western thought and science throughout most of its history. In other words, the emphasis on man in his existential reality, and not merely as object or merely as subject, has made us aware of the enormous significance of the psychological and spiritual life of man in interaction with his surroundings, with the situation in which he finds himself.²² Doubt, even in the context of cognitive faith, cannot be considered merely as the subjective index of ignorance, as a simple absence of correct factual information. Just as faith by no means excludes man's inner life, so the doubt that is allied to this faith engages man existentially. In a word, not only methodological but also substantive doubt is active in the area of cognitive faith. Once we grant that the It, the object of religious cognition, is essentially different from other objects of cognition, we must take the next step and recognize a difference in the I of the cognizer. Hence, we may extend the limited validity given to methodological doubt by Saadia to cover, as well, substantive doubt.

Thus, what I propose is that in the cognitive areas of faith, the *emunah* of *emet*, doubt may play a positive role; not a frozen doubt, but a liquid doubt, one which melts in the encounter with *emunah* and is absorbed by it and strengthens it in return. Cognitive faith is not an abstract, static acknowledgment of truth; it is a violent struggle in the attainment of *emet*. I begin by believing despite doubt; I end by believing all the more firmly because of doubt. *Emunah* is thus a

dialectical process, not an established fact, an inner encounter between "yes" and "maybe," between the exclamation point and the question mark. *Emunah* and *safek* are not in essential contradiction to each other. "Faith," as Tillich put it, "is the continuous tension between itself and the doubt within itself." The *emet* which cognitive *emunah* affirms is not given to us for the price of mere assent; it is the prize for which we must engage in a fierce intellectual struggle. Doubt, so conceived, becomes not an impediment, but a goad to reinvestigate and deepen cognitive faith assertions. Out of the agony of a faith which must constantly wrestle with doubt may emerge an *emunah* of far greater vision, scope, and attainment.²³ The "bitter waters" of Torah turn sweet and full of the light of life, in the words of the Rebbe of Komarno.

This is, of course, a dangerous and risky kind of faith. But, as someone so rightly said, you cannot open your mind to truth without risking the entrance of falsehood; and you cannot close your mind to falsehood without risking the exclusion of truth. The only way to avoid cognitive doubt is to ignore it; worse yet, to abandon the enterprise of cognition, or *daat ha-Shem*. The path to the knowledge of God is strewn with the rocks and boulders of doubt; he who would despair of the journey because of the fear of doubt, must resign himself forever from attaining the greatest prize known to man.

Doubt and Halakhah

Thus far our analysis has drawn upon Saadia Gaon as the sole source for a positive view of the role of doubt in Judaism. Is there any earlier, Talmudic source for such an attitude?

I believe there is, and the halakhic support comes from Hillel, according to the interpretation of Rashi:

Our Rabbis taught: A story—a Gentile once came before Shammai and asked him, "How many Torahs do you have?" He answered, "Two: the Written Torah and the Oral Torah." Said he (the Gentile): "I believe you [about the validity of] the Written Torah, but I do not believe you [about the validity of] the Oral Torah.

Convert me on condition that you will teach me the Written Torah." Shammai scolded him and ejected him with rebuke. He came before Hillel [and made the same request of him]. He converted him. The first day he taught him: A, B, C, D. The next day he reversed it (i.e., he taught him the alphabet in reverse order). Said he to Hillel, "But did you not tell me otherwise yesterday?" Answered Hillel, "Did you not rely upon me (i.e., to teach you the alphabet)? Then rely upon me as well concerning the Oral Law."²⁴

Now the different responses of Hillel and Shammai are not, as the naive popular belief holds, traceable to idiosyncratic differences in temperament. There are halakhic issues over which these two giants of the Law differ. According to Rashi, Shammai's rejection of the prospective proselyte was based upon a law cited in the Baraita: "A proselyte who wishes to be converted, and accepts upon himself all the Torah except for one item, may not be accepted."²⁵ Why, then, did Hillel accept the Gentile? Hillel, explains Rashi, relied upon his own wisdom in eventually influencing the candidate to accept all of Torah unconditionally. But is the Gentile not, as of now, an invalid candidate because of his present reluctance to accept the Oral Law? Here Rashi makes the following significant statement:

This case is not the same as that of one who wishes to be proselytized on condition that he accept everything except one item; for here [the Gentile] did not deny [the validity of] the Oral Torah, but did not believe that it came from God, and Hillel felt sure that after he would teach him he would rely upon him.²⁶

Rashi's analysis, then, is this: Shammai equates one who has not yet accepted—i.e., one who doubts—with a heretic, one who denies. Hillel, however, makes a clear distinction between them: he who denies holds a wrong conviction and places himself outside the fold, but he who doubts holds no

wrong convictions. He is one who does not *yet* believe, but who, exposed to the right teachers and teachings and experiences, will believe. The *kofer*, one who denies, cannot be accepted as a proselyte; indeed, a native Jew who denies certain dogmas reads himself out of the community of believers. But one who doubts, not only does not exclude himself from the House of Israel, but even if he is a Gentile he may be accepted as a proselyte *de jure*, even while he entertains his doubts!

This is, I believe, sufficient halakhic warrant for the thesis that doubt—the state of questioning suspension between faith and denial—can be acknowledged as legitimate within the confines of cognitive faith.

The honest doubter must, therefore, not be looked upon as an enemy who is hostile to Torah.²⁷ We must neither attack him nor avoid him. Nor must we be distraught when we are ourselves confronted by intellectual religious problems. Faith, in its cognitive sense, is the tension between itself and doubt, and inspires us to greater intellection, deeper study, more exhaustive inquiry, and ultimately growth in our *emunah*. I cannot imagine how halakhic progress could ever have been achieved without the dialectic of question and answer, problem and resolution. No one, as the wise Yiddish saying current in yeshivot goes, ever died from a קושיא. The same might be said, *mutatis mutandis*, of faith and doubt within the area of cognition.

Doubt and Functional Faith

However, this grant of legitimacy to doubt must be limited to cognitive faith, and must not affect functional faith or halakhic practice. Once we violate a halakhic norm on the basis of a cognitive doubt, we have in effect ceased to function as believers and begun to act as deniers—not even as doubters. One can suspend intellectual judgment; one cannot suspend action. This is precisely the point made by William James in his criticism of agnosticism when he formulated his idea of the “forced option.” You can refuse to come to a conclusion, or insist that it is impossible to come to a conclusion, in the theoretical sphere, such as on the question of the existence or

non-existence of God; but in practice you must act *as if* there were a God or *as if* there were no God. There is no middle ground; inaction is also a decision. Similarly, in terms of our own analysis, doubt can function in the noetic or cognitive sphere of *emunah*, but not in the functional realm, that of Halakhah. If, as we have been insisting, doubt can be acknowledged as part of cognitive faith and in spiritually valid tension with it, then the functional commitment must be absolute; otherwise it reflects the utter hypocrisy of the claim for the religious validity of cognitive *safek*.

This point, so characteristic of pragmatism, was made earlier and most convincingly by Joseph Butler, whom Cardinal Newman considered the greatest of Anglican bishops, in attempting Christian apologetics in the face of his contemporary, early eighteenth-century empiricism. Religion, according to Butler, involves two aspects: discernment, or what we have called the cognitive, and commitment, what Buber calls trust and which we have subdivided into the affective and functional. In the area of discernment, "probability is the very guide of life," in the sense of weighing the evidence and assessing the probabilities of the alternatives. This discernment "determines the question": my evaluation leads me to a decision. But this decision results in a commitment which is unconditional. "In matters of practice, [it] will lay us under an absolute and formal obligation." This total commitment is, thus, based upon but goes beyond rational considerations and probabilities. Furthermore, the question of probabilities in formulating my discernment is not an arid mathematical calculation. Even if the probability is quite low it can, if the issue is sufficiently momentous and means enough to me, lead to a commitment that is absolute and in which probability thereafter plays no role. Thus, I see a child drowning, and I discern that there is a chance of saving him. Now I may estimate my swimming ability, the child's chance of survival until I reach him, and my chance of saving him, as very low, and the risk to myself as high. Yet, the fact that I believe there is some chance of saving him and that I consider it eminently worthwhile to do so, leads me to a commitment: I jump in and swim to the child. My

discernment was plagued with serious doubts and grave misgivings. My commitment, however, is not one whit less total than if I had been a champion life-saver; I will spare no effort in achieving success. This is essentially what we have been saying: it is quite understandable and legitimate to entertain doubts in the area of cognitive faith, in *emunah-emet*, and yet insulate functional faith, the commitment of *emunah-ne'emanut* or Halakhah, from any doubts whatsoever.²⁸ This commitment demands of me that, by my practice, I slice through the polarity of faith and doubt and opt for one or the other. The act, then, does indeed issue from the matrix of polarities in tension, but it itself must be expressive of only one or the other: faith, if the act is a *mitzvah*; doubt, if it is an *averah*. The act does not, of course, resolve my dilemma, but it does deepen my faith by virtue of my commitment and participation in the performance of the faith act.

Moreover, the relationship between the cognitive and the functional does not proceed only in one direction, from the cognitive to the functional, or from theory to practice. When a Christian theologian states that "It cannot be required of the man of today that he first accept theological truths. . . . Wherever the church in its message makes this a primary demand, it does not take seriously the situation of many today,"²⁹ he is discovering a truth that Judaism proclaimed a long time ago for men of all ages: *naaseh* comes before *nishma*, Halakhah precedes and remains unconditioned by theology. Judaism has always maintained that behavior influences belief, that the cognitive may be fashioned by the functional. Thus the bold statement of the Rabbis that God cries out, "Would that they had forsaken Me but kept My Torah!"³⁰ "The heart," a medieval halakhic source states, "follows actions."³¹ Thus, too, the wise insight of Yehudah Halevi, so characteristic of his whole *Weltanschauung*: "A man cannot attain a relationship with God except by the observance of [the word of God.]"³² It is the functional life of faith, exclusively, which leads to the state of mutuality, or what we would today call "dialogue," with God. The normative is more fundamental than the cognitive; hence cognitive doubt, legitimate as it may

or may not be in its own restricted sphere, must not affect halakhic practice. On the contrary, genuine halakhic living (which includes the study of Torah) may, in a manner more existential than logical, still the cognitive unrest: "... the light which [the Torah] contains will lead him back to the right path."³³ It is, to use a homely metaphor, only an immature and impetuous youngster who, upon realizing for the first time the all too-human inadequacy of his parents and questioning their love for him, will precipitously act upon the basis of his doubts and run away from home. A more mature youngster will stay at home even while mulling over his doubts and, eventually, the very continuation of the experience of his family's comradeship may help him to resolve his cognitively formulated doubts.

It is here that many contemporary Jews, disillusioned with liberal and secular faith and searching for Jewish religious expression outside the framework of Halakhah, have failed. In the absence of a total commitment to Halakhah as divine law and as the binding normative expression of Judaism, doubt loses its religious value, and theological discourse becomes an amusing game played by spiritual dilettantes. The "Jewish intellectuals" who deal in the coin of existentialist piety without investing in the halakhic commitment are unwitting counterfeiters. I say this not from the point of view of a parochial institutionalism, but with profound regret. The involved writing, the plaintive gesturing, the contrived marginality, the conscious mystifying—all of these are just an elaborate spiel if they are never meant to result in a faith which functions in real life as Halakhah.

Halakhic commitment, then, that which we have called functional faith, must be absolute and unconditional, even while simultaneously doubt plays its role within cognitive faith. But one may rightly ask: Is there any authoritative justification for this distinction between the cognitive and functional which permits us, in our case, to allow doubt into one area while sealing the other to it?

Such warrant, I believe, may be found in the *Nefesh ha-Hayyim* of R. Hayyim of Volozhin, for whom an aspect of

this problem is central to his conception of the mystery of *tzimtzum*. Briefly, R. Ḥayyim found himself affirming two apparently incompatible theses. On the one hand, his conception of God was one which led him to acosmism or illusionism. The *En-Sof* (God in His infinity and absoluteness) is the only reality, such that even the world does not exist for Him. The words *ein ode* (in the verse "... for the Lord is God in the heavens above and on the earth below, *ein od*—there is none other" in Deut. 5:39) is taken by R. Ḥayyim as *mammash*, literally so: not only that there are no other gods, but that there is nothing else at all. In the face of the divine Infinity, all finitude ceases to exist; only God is real, all else is illusion. On the other hand, R. Ḥayyim laid the greatest stress on Halakhah and formulated an unprecedented evaluation of the Study of Torah.³⁴ Now Halakhah and Torah deal with the world as it is, as a multifaceted reality, rich in its variegated phenomena, and impose upon this world a number of distinctions, such as "sacred" and "profane," and various levels within the category of the sacred. Can one theologically affirm a God who in His ontological allness denies reality to the world and, at the same time, acknowledge the Halakhah which presupposes a real world and its many orders of differentiation? Yes, answers R. Ḥayyim, we accept both. We cannot explain it by discursive reasoning, but we can affirm it mystically. Indeed, this is the secret of *tzimtzum* and the central paradox of religion: from God's point of view there is only God, and no world; from our point of view there is both God and cosmos, and Halakhah is thoroughly relevant and obligatory. In fact, the major brunt of R. Ḥayyim's critique of Ḥasidism is that the Ḥasidim allowed their theological theory of radical immanentism, which denies value distinctions in the presence of God, to spill over directly into practice, resulting in certain antinomian tendencies.

What we see, therefore, in bold relief, is that a major expositor of normative Judaism considers the area of cognitive faith—the realm of theology and theosophy—as distinct from functional faith, that of halakhic conduct and its axiological basis. By the same token, if we grant validity to doubt within

the sphere of the cognitive, it is legitimate to insist upon a total halakhic commitment unaffected by doubt. I do not mean, of course, that R. Hayyim would necessarily agree to our validation of cognitive doubt. I do believe, however, that our methodology is authenticated by his approach to *his* problem.

Doubt and Affective Faith

We have determined, then, that doubt, even substantive doubt, has a place in cognitive faith, but that it must be excluded from affecting functional faith. What, however, of affective faith, the area of *bitaḥon*?

Now my thesis is this: just as we proposed the sealing off of functional faith, or halakhic conduct, from cognitive doubts, so must we exclude such doubts from the area of affect, insofar as it is within the power of the will to do so. The trust relationship is a delicate one, intensely personal, and it has explosive implications for the totality of the faith situation. If my cognitive doubts are indeed authentic religious phenomena, they must be confined to intellection, and must not disturb my personal trust in and love for God.

However, it is obvious that the category of emotive faith also possesses its own, inherent possibility of substantive doubt, in the sense of questioning one's trust in or reliance on God. For instance: the martyrdom of the six million Jews raises brooding questions of theodicy within us. Do they not shake our trust in God's providence and fairness and goodness and justice? The paradigm for this doubt is the question of Abraham: "Shall the Judge of all the earth not do justice?" (Gen. 18:25). It is not a matter of getting back at God because of the evil in His world by questioning His existence, although this is a psychologically understandable reaction. It is, rather, a matter of accepting His existence and His personality, but doubting His interest in us, His fairness or, if you will, what He has informed us about His nature: that He is a *Raḥum ve'Ḥanun* (Merciful and Gracious) and *Tzaddik* (Just). Hence, it would seem, *safek* can exist even within the affective, noncognitive aspects of Faith.

However, further reflection will show that there are two kinds

of affective doubt. One appears as a trauma within the trust relationship, and the other reverts to a cognitive-type doubt (it is understood that we mean by this the substantive, not the methodological, cognitive doubt).

Now, these doubts of the first type are of a different order from the cognitive doubts we discussed above. A fundamental difference between the cognitive and affective-functional aspects of faith is that the former is discursive, it is *about* God, while the latter is relational. In the former I am concerned with a religious It—the concepts of God which engage my attention—whereas in the latter I relate to God as a Thou or a He.³⁵ The former is characteristically impersonal, objective; the latter, personal and unmediated. In this context, it follows that the affective-faith-doubt tension is represented by the oscillation between closeness and distance, ardor and bitterness. It is an integral part of man's relation with God, his deepest religious experience, and neither can nor should be removed. These polarities are akin to what the mystics have called *ratzo va-shov*, the alternation between intense light and the very blackest darkness of the soul. It is they—the trust-correlatives of certainty and doubt—that constitute the dynamism and the very essence of the genuinely religious man's spiritual biography.

The second kind of affective doubt, however, that which reduces to a cognitive-type doubt, merits special consideration. It is quite common, usually inspired by questions of theodicy, and can be enormously disturbing. How ought we deal with it?

It is well to consider how such cognitive-type doubts originate within the realm of affective faith. The personal trust relationship, like cognitive faith when it engages substantive doubt, is not static, but in a different way. Love and hate, warmth and coolness, praise and reproach, are the poles between which relationship moves. Now when pushed to an extreme, the personal relationship is threatened, and appears to reduce to an "It" assertion. I may be angry with a friend, even as Job was angry with God. In my haste, I may say things not *to*, but worse, *about* my friend, which I will regret,

even as Job cried out, "It is all one, therefore I say that He destroys the innocent with the wicked" (Job 9:22), for which the Talmud so harshly condemned him. Thus, a trauma in the relationship has engendered a quasi-cognitive doubt which, however, can flourish only in the absence of that relationship. Such statements, as that of Job, which skirt the border of propositional, belief-that doubts, are offered only in the absence of the other, the Thou. Once this Thou appears, all my belief-that doubts are removed, not by being resolved, but by being pushed into irrelevance. In the presence of the beloved and mysterious Thou, questions are no longer meaningful, because the whole category of discursive belief-that has been subsumed under and swallowed into affective belief-in. Thus, Job rants and raves, and for millenia learned theologians and philosophers and Bible scholars try to discern the thread of his argument. But when God appears out of the whirlwind, Job is overwhelmed—not by the cogency of the divine philosophy, but simply the Presence of the Thou whom he loves and fears, by Whom he is fascinated and overawed.

The approach to these cognitive-type doubts, therefore, must be one of reversing the process that generated them, that is, by proceeding from the propositional to the emotive, from belief-that to belief-in. Such doubts, as Job learned, can be removed by Presence, by relationship, which is an affective spiritual phenomenon transcending the noetic and cognitive ground of doubt.

Interestingly, it appears to be characteristic of Judaism that, without at all deprecating intellection, it moves from belief-that to belief-in, from the propositional to the relational.³⁶ Thus, Buber has correctly pointed out that the doctrines which the Mishnah in Chap. X of *Sanhedrin* considers fundamental, such that if one denies them it results in his loss of *olam ha-ba* (the world-to-come), are not true dogmatic belief-that propositions.³⁷ They are, in effect, the underpinnings of an attitude of trust, of belief-in. The beliefs in resurrection, divine origin of Torah, and Providence are really the foundations and the characteristics of personal trust. Similarly, Bahya describes discursively the qualities of the *nivtaḥ* (the object of faith)

which make him worthy of the *bitaḥon* of the *boteiah* (the one who has faith).³⁸ In the very section where he discusses belief-in, the very essence of the trust-relationship, he utilizes the descriptive language of belief-that! For belief-that is converted to belief-in; otherwise, without this personal moment, true *bitaḥon* is never attained.

The Jewish Rationalists

But if the relational belief-in rather than the propositional belief-that is the essential core of Jewish faith, such that cognitive doubts in the former can be overcome by reverting to a state of relation, does this mean that the whole elaborate enterprise of Jewish medieval rationalism is an aberration, a foreign graft on the body of essential Judaism? There are those who, like R. Samson Raphael Hirsch, have answered in the affirmative, accusing Maimonides, for instance, of submitting to alien influences and neglecting the autochthonous world-view of Judaism. Yet I find it hard to believe that such giants of the Halakhah as Saadia and Bahya and Maimonides were so assimilated that they failed to grasp the essential nature of the Torah's faith-commitment and wasted their enormous philosophical talents on an area of concern which is, at best, secondary and peripheral.

I prefer to view the matter differently. Traditional Jews have all along known, intuitively, that the great Jewish philosophers believed in God and in Torah and the Jewish tradition before they set out to prove their beliefs, and that their faith was unconditioned by their speculation. Equally apparent is the fact that the proofs of God's existence and unity, for instance, were quite ineffective in persuading heretics and winning them over. If believers need no proof and non-believers are not convinced by it, why then the whole complex effort? Some, perhaps, will say that it was meant for those who were weak in their faith, who were perplexed, who sought philosophic support for their doctrines. No doubt there is a good deal of truth in this answer. Yet even a cursory acquaintance with the great medieval Jewish philosophers gives us the feeling that they took their work with much more

seriousness than usually befits what is but a pedagogic task. Saadia and Maimonides were not patchwork carpenters of religious philosophy. They were master builders, not emergency repairmen. And what shall one say of the saintly Bahya who considered metaphysical speculation a *mitzvah* and rebuked those who had the capacity for philosophical thinking but failed to undertake it?³⁹ And, if philosophical speculation were only a means of "reconciliation" for troubled intellects, would Maimonides have included it as the very beginning of his immortal Code, the *Mishneh Torah*, and would he have considered it, in this same Code, as "a great matter," even greater than the study of Halakhah?⁴⁰

The medieval Jewish rationalists were men of profound faith who understood that true faith must mean complete faith, *emunah shelemah*, a faith that will grasp and engage man in his totality and not only in selected aspects of his personality and his being. They knew full well that the central core of Jewish *emunah* is the relation of trust, belief-in. But they realized, probably in response to the new currents of the cultures in which they lived, that with the development of man's rational sophistication, this particular area of the human personality had been neglected in Judaism.⁴¹ They therefore saw it as their *religious duty* to include within the faith-commitment the Jew's philosophical drives and cognitive yearnings as well as his sense of trust and unmediated emotional or affective relation, his belief-that as well as his belief-in. "In fact," writes a perceptive contemporary student of the medieval philosophers, "they merely transpose the act of faith into the medium of rational thinking, and this is their true philosophical significance."⁴² Somewhat earlier, the same idea was stated by the foremost student of the late Rav Kook: Maimonides held that the function of speculation and the classical proofs is "to reveal what is hidden," to make available to discursive reason what would otherwise remain equally valid and active but inaccessible to man's rational cognition.⁴³

The medieval Jewish philosophers, then, undertook to explicate the relational belief-in, in the idiom of propositional belief-that. But this in itself is an implicit acknowledgment that

the inner core of faith is the former rather than the latter. Hence, while it is a religious virtue (*mitzvah*) to adumbrate the rational foundations of Judaism, the way to regain a faith beset by doubts, where cognitive efforts have failed, is to reverse the situation of the believer-doubter from a belief-that frame to a belief-in situation, to go from the periphery to the core, to relocate himself from the outer world where the object of faith is an It to the inner sanctum of relation where the object of faith is not an object at all but the holy Thou.

Three Ways of Relocation

How can this relocation take place in order to minimize the possibilities of a personal spiritual catastrophe of doubt hardening into denial? Briefly, this is an outline of what I believe to be an advisable procedure.

The first effort must be to enter into a situation of true *tefillah*, prayer. The essence of prayer is the confrontation with God; the most fundamental *kavvanah* or intention is the consciousness of presenting oneself before God.⁴⁴ It is true that the major complaint of contemporary men is that they cannot bring themselves to pray. It is an honest objection, but is based, I believe, upon a faulty premise, namely, that the cognitive affirmation of religion must precede its affective relationship. When we are convinced, however, that confrontation precedes cognition, that the existential encounter and the sense of trust have priority over the propositional belief-that aspect of faith, then we shall realize that it is possible by an act of will to locate ourselves in a situation of prayer. I share Rav Kook's belief that man is naturally in a latent state of prayer and that he must remove his distractions in order to discover, or "reveal," his innate prayerfulness.⁴⁵ Prayer, of course, will not answer philosophical questions and resolve theoretical doubts, but it will take the sting out of them and, by the force of relationship, help transform the substantive doubts into methodological ones.

A second suggestion is: the study of Torah. Hasidism, of course, always understood the paramount importance of *devekut*, the experiential communion with God, in the study of

Torah. According to its interpretation, God is especially immanent in Torah, and the study of Torah is therefore a means of achieving an encounter with the divine Presence.⁴⁶ Even according to the classical rabbinical approach, study of Torah is a form of communion, although more dogmatic than experiential. Nevertheless, even according to the most authoritative and elaborate expositor of this doctrine, R. Hayyim of Volozhin, for whom study of Torah "for its own sake" means for the purpose of understanding its contents, such study is more than an intellectual pastime, a kind of cognitive entertainment. The student, in his studying, must be conscious primarily or even solely of his intellectual tasks, but Torah, as such, is far more than a document of the divine legislation; it is in itself, mystically, an aspect of God, and hence the student's cognitive activity on Torah serves the higher end of binding him to God.⁴⁷ The cognition of Torah is therefore different from speculative cognition of God; the latter is thinking *about* God, the former is, so to speak, thinking *to* God. For R. Hayyim, every religious performance—prayer, Torah, the *mitzvot*—is an effort to bring God out of His self-contained and impersonal Absoluteness into His Relatedness, by which alone man can achieve a personal relationship with Him.⁴⁸ Hence, the study of Torah, too, is a way of rediscovering a belief-in relation to God. Of course, whether Torah or *tefillah* is the more effective method depends entirely upon the personality of the individual in question.

Finally, it must be remembered that faith, especially in Judaism, is not entirely and exclusively an individual problem. The covenant was sealed between God and the people of Israel, not just a collection of individual Israelites. Identifying with a community of believers which has a tradition of faith and a history which includes an encounter with the Divine, is itself a way of relocating oneself in a relationship of trust in God. Thinking, at least in our society, is the solitary act of a single individual, whereas believing and trusting is reenforced by a participating historical community.⁴⁹ One who separates himself from the community thereby surrenders this opportunity to encounter God as one of its members.⁵⁰

Gemillut ḥasadim, acts of lovingkindness, or the enhancement of social harmony and communal welfare, is therefore a means of allowing individual citizens of the community to join it in its covenantal, faithful role. Included in this category is *dibbuk talmidei ḥakhamim*, the attachment of oneself to the scholar-saint, the model of faith and trust, which the Talmud considers a fulfillment of the Biblical commandment to cleave to God; for by such intimate association I appropriate the *talmid ḥakham's* "belief-in," tempered by the assaults of doubt which it has survived and from which encounters it has emerged strengthened, and thus "cleave" to the Object of our shared faith. To paraphrase Simon the Just, therefore, the three things on which the world of faith rests are: study of Torah, prayer, and the identification with a believing community.⁵¹

For the epistemologist and the logical empiricist (and the Jewish rationalist for religious reasons) the problem is how to reduce belief-in to belief-that. For the individual Jew struggling for faith, caught up in the existential anxiety of doubt and the meaninglessness and non-being it implies, the problem is how to elevate and retransform belief-that to belief-in. The cognitive doubts, of course, remain objectively as they were before, but we can deal with them as we should: intellectually and dispassionately, without falling into the gaping abyss over whose narrow edge we walk our winding trail.

Conclusion

We have tried, in sum, to formulate a methodology for dealing with doubt in the context of Jewish faith. We found that there is place for doubt within the confines of cognitive faith; it must not be allowed to interfere with normative halakhic practice, which is the expression of functional faith; and in affective faith we found that cognitive-type doubts can be met by creating a situation in which belief-that reverts to belief-in.

Jewish religious leadership must not fear honest questioning. In fact, we may consider ourselves fortunate when we find the signs of doubt. Usually we meet nothing but a spiritual vacuousness in our "Jewish intellectuals." Where we find questioning, even of a hostile variety, Judaism stands a chance. Doubt

acknowledges implicitly a faith-affirmation with which it is engaged.

If we are to win the hearts and minds of educated Jews for Torah, we must turn our attention more to the campus than to the synagogue, more to the lecture than to the sermon, more to the podium than to the pulpit. And in our encounter with young intellectuals, we must understand their questions before we offer our answers.

What also requires urgent attention is the degree of questioning that goes on in the minds of young people in yeshivot and for whom no help is offered in dealing with their religious problems. We live in an open, pluralistic, secularist society. Modern Orthodox Judaism can no longer continue to ignore this fact of life, and act as if instruction in religious observance and education in Talmudic law will, by themselves, keep the secularist wolf from the door.⁵² Teaching the intellectual content of Judaism, *hashkafah*, in a manner relevant to the concerns of modern men, must assume a new role in Jewish education, and must begin *before* our young people have already given up the fight because their elders have failed to prepare them for it. It is cruel to expose them to the "bitter waters" without any preparations, without instilling in them the confidence that "the precious sweetness of the light of Torah" follows.

But before that, committed Jewish thinkers must face the intellectual challenges of contemporary life fearlessly, without the improvising and dissembling that have too often infected so much of modern Jewish apologetics. The intellectual problems are so many, and require such a bewildering variety of specializations, that the task cannot be undertaken by individuals working alone. We must undertake ongoing consultations amongst committed Jewish thinkers of all shades of opinion on the ethical, philosophical, and dogmatic issues that have to be met.

A final word. We have analyzed faith in an effort to learn how to contain doubt. But how can *emunah shelemah* (complete faith) be achieved—that reintegration of the total personality in the face of God? How can doubt as such be transcended?

In the Jewish manner, let us attempt to answer this question with another question, one that may appear absurd and even brazen: Can God doubt? Does *He* sometimes oscillate between affirmation and denial?

Now, of course, I do not mean to ask if God believes in God. That does not make sense, certainly not in a cognitive context. However, the question is legitimate and valid in the affective or trust sense, when the object of divine concern is man. The drama of human existence is predicated upon the divine grant of freedom to man. Only in terms of this gift of ethical sovereignty does the human predicament become worthy of consideration. But such freedom for man implies that God has willingly surrendered part of His control, that He has, paradoxically, willed that things may go against His will. The built-in risks in the creation of an ethically autonomous being are implied in the symbolic story in the Midrash about the debates amongst the Heavenly hosts as to whether or not such a creation ought to take place. The deadlock amongst the angels was broken by God's vote in favor of the creation of man. He knew that man might well fail, yet He was willing to take His chances on him.⁵³

In a word, God had, or has, faith in man; He trusts him, believes in him. So, on the verse that God is *El emunah*,⁵⁴ a God of faith, the Midrash comments: *she'maamin bi'veruav*, that He believes in His creatures. But faith always implies the possibility of doubt. If, then, God has faith in man, He can also doubt man.

There is even Biblical evidence of such divine doubt. Soon after the creation of man—the divine act of faith, appropriately followed by God's blessing of the object of His faith⁵⁵—the drama of human freedom begins. Is God's trust vindicated? Adam and Eve fail. Cain fails. For ten generations God withholds His wrath and extends His patience.⁵⁶ He continues His trust in man despite, as it were, the irrationality of such faith. Finally, the generation of the flood reaches a new low in its abuse of freedom. "And the Lord repented that He had made man upon the earth, and it grieved Him at His heart" (Gen. 6:6). What does this "repentance" mean if not that God had

begun to doubt man, to question His own trust in him, that the doubt implied by faith had now gained the upper hand, and that the next step was the transformation of doubt into denial, i.e., the denial of existence to man? The very words "and it grieved Him at His heart" are, in their very anthropomorphism, a classical description of the psychological manifestation of doubt anxiety.

The Lord doubted man. A new chapter had begun in the tension between God's faith and His doubt. Were doubt to emerge victorious, as denial, and faith withdrawn, the world would cease to exist: "I will blot out man whom I have created from the face of the earth . . . for it repenteth Me that I have made them" (Gen. 6:7). Only the virtue of Noah kept the divine faith sufficiently alive to prevent that cosmic cataclysm from coming into being, the doubt from winning out as denial: "But Noah found grace in the eyes of the Lord" (Gen. 6:8).

Man's trust in and doubt of *Elohim* is paralleled by God's trust in and doubt of the *tzellem Elohim*, the divine image. Wherever a relationship involves at least one free agent, there are immediately implied the possibilities of both faith and doubt in that free agent.

This, then, is how our own doubts may be transcended, if even for a fleeting moment, which may be worth all of eternity: by the realization that we may well be the objects of God's doubt. The fullness of faith can be attained when, instead of doubting God, we come to the sudden and terrible awareness that God may be doubting us; that our *human* existence has yet to be affirmed by God who may not be convinced of its worth; that God may have lost faith in us because we have betrayed Him. That must be the focus of our concern.

What a tragic fate!—to be tossed between the torment of doubting God and the terror of being doubted by Him. But it can be more than a fate; it can be a destiny: to be concerned with and be the concern of the Creator of all.

The way of the faithful Jew in this last third of the twentieth century is not an easy one. Not for him is the facile "peace of mind" of those for whom religion is but a psychological crutch;

nor for him is the perverse security of the nihilist who has resigned himself to utter, hopeless, meaninglessness. His way is not easy—but it is sublime, and it is sacred. He risks the “bitter waters” of faith, bitter unto death; but he knows he must persist in love, until “there will shine upon him the light of the King of all life.”

In the words with which the profound Spanish philosopher, Miguel de Unamuno, concluded his masterpiece, *The Tragic Sense of Life*: “. . . and may God deny you peace but give you glory!”

1. Paul Tillich, *The Courage To Be*, Yale University Press (New Haven & London: 1952).
2. M. Homes Hartshorne, *The Faith to Doubt*, Prentice-Hall (Englewood Cliffs, N. J.: 1963), p. 79.
3. *Avot* 2:5.
4. See *infra*, n. 39.
5. Harry A. Wolfson, *Philo*, Harvard U. (Cambridge: 1947), vol. I, p. 156.
6. Prof. H. Richard Niebuhr asserts, with appropriate qualifications, that "belief-that" conforms more to the Greek sense of the term "faith," and "belief-in" to the Hebrew sense (in his "On the Nature of Faith," in *Religious Experience and Truth*, ed. Sidney Hook [N.Y.U. Press, New York: 1961], pp. 93-103); in this he follows Buber who makes this his main thesis in his *Two Types of Faith* (London: 1951). As we shall shortly show, however, Jewish faith cannot be defined so narrowly. The two types of faith have also been declared characteristic, respectively, of the Thomistic and Augustinian traditions, and of Catholicism and Protestantism. We shall here be using the terms "belief" and "faith" interchangeably, although there are differences between them: cf. Razi'el Abelson, "The Logic of Faith and Belief," in the above volume, ed. Hook, pp. 116-129.
7. H. H. Price, "Belief-In and Belief-That," *Religious Studies*, Vol. I, No. 1 (October 1968), pp. 1-27.
8. These three categories may be characterized, using Buber's terminology, as follows: The cognitive expresses an I-It relation, the affective an I-Thou, and the functional an I-He relation. The cognitive is I-It because my faith or affirmation is focused not directly on God, but on a concept about Him. The affective form of faith is not always, nor need always be, a personal encounter; but the full range of religious emotions certainly strives for and derives from the confrontation with God as the Thou, as an ideal. It is because this form of faith aspires to this encounter that my use of the term "affective" should not be taken too literally; I intend by it an activity or state with more objective reference than emotion or affect as such. The functional is I-He in the sense that halakhic living does not require an I-Thou encounter, but is predicated upon such an encounter as a historical event; the performance of *mitzvah* is not itself a personal confrontation, but is based upon the collective We-Thou meeting of Israel with God at Sinai.
9. Jeremiah 9:2-בָּאֵרֶץ גְּבֵרֹוּ לֹא־אִמּוֹנָה שָׁקֵר וְלֹא יִדְרֹכּוּ אֶת־לִשְׁוֹנָם קִשְׁתָּם בְּטָחוֹן with betrayal, the absence of trustworthiness.
10. So R. David Kimḥi, in his *Sefer ha-Sharashim*, and Abravanel in his *Commentary on the Guide of Maimonides*.
11. See Henry Malter, *Saadia Gaon: His Life and Works*, Jewish Publication Society (Philadelphia: 1921), p. 193, n. 455; S. Ravidowicz in *Metsudah* (1943), pp. 132-143; Alexander Altmann, in the introduction to his "Saadya Gaon: Book of Doctrines and Beliefs," in *Three Jewish Philosophers*, Meridian & Jewish Publication Society (New York and Philadelphia: 1960), p. 19; R. Hayyim Heller, notes to his edition of Maimonides' *Sefer ha-Mitzvot*, Pos. Com. 1, n. 1. On the necessary metaphysical presuppositions of Halakhic Judaism, see Walter S. Wurzburger, "Meta-Halakhic Propositions," in *The Leo Jung Jubilee Volume*, eds. Kasher, Lamm, and Rosenfeld, The Jewish Center (New York: 1962).

12. *Supra*, n. 8. In Arabic, the related root means a strong rock on which one may lean for support and behind which one may be shielded from his enemies.

13. My use of this term needs some explanation. The usual Platonic tripartite classification of the soul, or personality, accepted by Saadia amongst others, is that of knowledge, emotion, and will. Tillich (*Biblical Religion and the Search for Ultimate Reality*, Chicago University [Chicago: 1955], p. 53) makes use of the same analysis in describing faith; since faith is the concern of my entire being about my ultimate "where" and "when," all three elements enter into the act of faith. By "will" Plato means mettle or honor or courage, as well as sheer intentionality. I have used "function" instead of "will" in order to indicate the functionality of faith in Judaism as expressed in the Halakhah; my commitment to God as it reveals itself in a sacred pattern of living and acting. This pragmatic interpretation of belief has been emphasized by many philosophers, beginning with Peirce, James, and Dewey. "I believe," is referred to by Stuart Hampshire, in stressing the behavioral implications of belief, as a "declaration of intention," i.e., to do something; see his *Thought and Action*, Viking Press (New York: 1960), p. 159f. Cf. R. W. Sleeper, *Religious Studies*, vol. II, No. 1 (October 1966), pp. 75-93, who expands the terms "believe-in" and "believe-that" from a psychological and epistemological to an ontological basis. "Believe-in," according to Sleeper, includes "a willingness to act on what is believed, to govern one's actions in what is believed in" (p. 89).

14. Exodus 17:12.

15. According to Maimonides, *Hil. Talmud Torah* 1:11, 12, and *Hil. Yesodei ha-Torah* 4:13. See *infra*, n. 52.

16. Sifre, Deut. #41 (ed. L. Finkelstein); *Kiddushin* 40b.

17. The only traditional Jewish thinker to attempt to embrace actual denial, *kefirah*, within the world-view of Judaism—a step as bold as any we are prepared to take in these pages—is Rav Kook (in his essays *Zaronim*, *Arpelei Tohar*, and elsewhere), who considers the problem in the context of his overall philosophy. The polarity of faith-denial is, together with other polarities, included in the harmonistic interpretation of Rav Kook. Because we are here concerned with an effective analysis of doubt rather than an ontology of denial, and because aspects of his theory are treated in two chapters later in this book (see pp. 42-81), we shall not elaborate upon his ideas here. Briefly, Kook grants denial temporary *existenzberechtigung*, because he sees in it a positive spiritual impulse that has, however, come to grief because of its failure to understand that the Infinite can never be fully, even sufficiently, comprehended by the human mind. The effort to reach out, to quest, is nevertheless the expression of a genuine spiritual orientation, and "the light of the life of the supernal radiance is encompassed in it." The denial of God is thus, dialectically, a value that can be appreciated, albeit in transient manner, in the world of faith. Cf. Nathan Rotenstreich, *Jewish Philosophy in Modern Times*, Holt, Rinehart and Winston (New York: 1968), p. 226.

18. Hartshorne, *op. cit.*, p. 97; Karl Löwith, "Skepticism and Faith," *Social Research*, vol. 18 (June 1951), pp. 219-222.

19. Paul Tillich, *The Protestant Era*, Chicago University (Chicago: 1957), p. vii.

20. For a thorough treatment of Saadia's views on doubt, see Abraham J. Heschel, "The Quest for Certainty in Saadia's Philosophy," *JQR* (1942), pp. 265-313.

21. Cf. Arnold Brecht, *Political Theory: The Foundations of Twentieth-*

22. Rollo May, "The Origins and Significance of the Existential Movement in Psychology," in *Existence: A New Dimension in Psychiatry and Psychology*, ed. May, Angel, and Ellenberger, Basic Books (New York: 1958), pp. 11, 14. On the modern tendency, often exaggerated, to focus on the believer as well as or instead of the object of his belief, see Claude Welch, "God, Faith, and the Theological Object—An Historical Dialectic," in *The Harvard Theological Review* (July 1966), pp. 212-227.

23. "A churchman," wrote George Bernard Shaw (in the Preface to *Misalliance*), "who never reads *The Freethinker* very soon has no more real religion than the atheist who never reads the *Church Times*."

[illegible]

I wish to emphasize that I am using this passage to justify the theoretical distinction between doubt and denial, not any practical halakhic differences between them. Cf. Rav Kook, *Iggerot ha-Reiyah*, Vol. I, p. 20.

ly to my reading his juxtaposition of *למה* and *למה* as implying the condition of doubt. They prefer to emphasize the words *למה* and *למה*, i.e., the proselyte accepted upon himself the practice of the Oral Law's precepts but denied its divine origin. They take *למה* and *למה* as a description of *למה*. While the reference *למה* to the practical observation of *למה*.

not explain Kashī's change from the positive לֵבַד to the negative לֵבֹד לֵבֹד to the negative לֵבֹד . The two verbs are anonyms, and when used in the same sentence should ordinarily be understood as referring to the same object. Further, the text of the Talmud does not mention לֵבֹד at all, only the positive and negative of לֵבַד . If their interpretation of Kashī is correct, the question

based on belief and practice without belief, my reading of Kashi, however, observes that problem: he mentions out that "not believing" is not identical with "denying," thus yielding—a state of doubt. Most important, I cannot accept the basic principle the derive from their exegesis of Kashi, namely, that the practice of the halakhic precepts without belief in the Halakha's divine origin made the candidate for conversion acceptable in the

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לֹא הָיָה מֵאֲמִין שֶׁלֹא הָיָה כּוֹפֵר refers back to מפִּי הַגְּבוּרָה, i.e., "for he did not *deny* the divine origin of the Oral Torah, but did not *believe* that it came from God, and Hillel felt sure that after he would teach him, he would rely upon him concerning the divine origin of the Oral Torah." This is essentially the way I translated this passage. A perusal of the Talmudic text will show that the problem of practice had not been raised at all. Hence, Rashi's וְקָבַל עָלָיו means literally "to accept," implying a *belief* rather than a commitment to *practice*. This interpretation is, I submit, the simplest one available and most in accord with the words of Rashi.

27. It must be remembered that doubt, ubiquitous as it is in our times, constitutes a threat not only to religious faith, but to all affirmations, even antireligious ones. Thus, Arnold Brecht, *op. cit.*, p. 466f.: "Doubt has overcome not only many believers, but many atheists as well. It seems to have escaped notice that modern science has also produced a large class of what may be called 'doubting atheists'—people who once were atheists pure and simple, and who still today would classify themselves basically as such, but who now admit to some degree of doubt because they have come to see the limitations of science. This doubt of atheists is as much a result of modern science as is that of believers, and science should receive as much credit for the one as it has attracted blame for the other."

So, from a different point of view, Paul Tillich, in his *Rechtfertigung und Zweifel*; see *The Theology of Paul Tillich*, ed. Kegley and Bretall, Macmillan (New York: 1952), p. 203. Rav Kook writes (*loc. cit.*, p. 21): "If the denial (*Kefirah*) of our generation were truthful, it would always base its claim on doubtfulness . . . but it lies maliciously and asserts a claim to certainty, when even the most weak-minded know that it cannot go beyond doubt."

28. The same pattern holds true in ethics, when I am confronted by two or more conflicting courses of action, each in itself morally commendable. "What I have to do is study the situation as fully as I can until I form the considered opinion (it is never more) that in the circumstances one of them is more incumbent than any other; then I am bound to think that this *prima facie* duty is my duty *sans phrase* in the situation" (W. D. Ross, *The Right and the Good* [Oxford: 1930], p. 19). Halakhically, a positive commandment performed at the expense of a negative commandment, because of the principle of *aseh doheh lo taaseh*, is no less meritorious, and should not be executed with any less enthusiasm, than an ordinary positive commandment.

29. Paul Tillich, *The Protestant Era*, pp. 20, 21.

30. Jerusalem Talmud *Hagigah* 1:7; *Pesiḥta* to Lam. R., 2. This attitude is related, in these sources, to the allied concept that the study of Torah not for its own sake leads to the study of Torah for its own sake.

31. *Sefer ha-Hinukh*, 20: הפעולות אחרי נמשכים אחר.

32. *Kuzari*, 3:58.

33. *Supra*, n. 30.

34. See *infra*, chap. VI, section beginning "The Theological Perspective"; and see my *The Study of Torah Lishmah in the Works of Rabbi Hayyim of Volozhin* (unpublished doctoral thesis, Yeshiva University [New York: 1966], scheduled for publication in 1971–72 in English by Ph. Feldheim, Inc., & in Hebrew by Mosad Harav Kook), chaps. ii, iii, and iv; and see below, Chap. II, "The Unity Theme: Monism for Moderns," pp. 52–55.

35. See *supra*, n. 8.

36. Cf. Rashi to Ex. 20:19.

37. Martin Buber, *Two Types of Faith*, p. 41.

38. "*Hovot ha-Levavot*," *Shaar ha-Bitahon*, chap. ii.

39. *Ibid.*, *Shaar ha-Yihud*, chap. iii.

40. *Hil. Yesodei ha-Torah* 4:13.
41. Bahya, in his introduction to his *Hovot ha-Levavot*, bemoans the neglect of the study of the entire area of "duties of the heart," in which he includes both ethico-moral obligations and religious philosophical doctrines.
42. Erich Frank, *Philosophical Understanding and Religious Truth*, Oxford University Press (New York: 1945), p. 29.
43. R. Yaakov Mosheh Charlop, at the beginning of his "*Mei Marom*," a commentary on the "Eight Chapters" of Maimonides.
44. R. Hayyim Soloveitchik, "*Hidushei Rabbenu Hayyim Halevi*," *Laws of Prayer*, 4:1.
45. Rabbi A. I. H. Kook, Introduction to *Olat Re'iyah*, his commentary on the Prayer Book: התפלה המזמרת של הנשמה. R. Shneur Zalman of Ladi, *Likkutei Amarim*, 1:15 and Introduction to II: מאהבה טבעית ומסורת: and similarly, R. Yehudah Aryeh Leib of Gur, *Sefat Emet to va'Et'hanan* (vol. V, p. 20).
46. For sources, see my *The Study of Torah Lishmah in the Works of Rabbi Hayyim of Volozhin*, chap. vi.
47. *Ibid.*, chap vii.
48. See my "G-d is Alive," in *Jewish Life* (March-April 1966) pp. 19-23.
49. Thus the phenomenon of "epistemological loneliness," a term coined by David Bakan. See Rollo May, "Contributions of Existential Psychotherapy," in *Existence*, p. 57. On the role of community in the experience of faith, see Buber, *op. cit.*, pp. 170-174.
50. Maimonides, *Hil. Teshuvah*, 4:2.
51. *Avot* 1:2.
52. Cf. my article on "The Voice of Torah in the Battle of Ideas: A Program for Orthodoxy," in *Jewish Life* (March-April 1967), pp. 23-31. Critics of the point of view here presented may point to the Halakhah, codified by Maimonides (*Hil. Avodah Zarah*, 2:3) and based upon Talmudic sources, which proscribes the study of that which may lead one to heresy and hence into doubt. However, this must be read together with the opinion of Maimonides (*Hil. Talmud Torah* 1:12, according to *Hil. Yesodei ha-Torah* 4:13), mentioned above, according to which the study of metaphysics is included in the category of *Gemara* and hence obligatory. In *Yes. ha-Torah* Maimonides offers his personal opinion (*ve'ani omer*) that the speculative pursuits should be reserved for those who had already achieved excellence in the study of Halakhah. If one reads the passage in *Avodah Zarah* carefully he will note the author's explanation of and qualifications on his prohibition: the inability of all kinds of mentality to understand philosophic truth (*ve'lo kol ha-deiot yekholin le'hassig ha-emet al buryo*); the emphasis on the fact that this is a general decision to be applied to the masses of people (and by inference not to special classes) and to casual, unsystematic study (thus: *v'im yimshokh kol adam ahar mahshevot libo*); and the fear that such speculation will be undertaken by those who do not know its fundamental principles and methods (*ve'ino yodeia hamiddot she'yadin bahem*). Obviously Maimonides was dealing with two principles which had come into conflict—the duty to know God rationally, and the obligation to protect the unsophisticated from spiritual confusion—and in these two passages he laid down the guidelines for the correct choice of which principle to follow under which circumstances. Certainly we should continue to apply the same rules to the kind of situation to which they are relevant. What, however, if the state of society and culture are such that to follow these rules without deviation would result in wholesale abandonment of the faith? Would we be justified in applying these rules regardless of the effects that were to follow? Obviously not. We do not, today, live

in a stable, religiously secure society in which, without the malicious intrusion of heretical thoughts, life would continue faithfully at its own pace and without interruption. Those who are Orthodox are today a minority within a minority, and are surrounded on all sides by a culture which encourages questioning in general as well as raising specific doubts. (See the perceptive article by Joseph Grunblatt, "The Great Estrangement — The Rabbi and the Student," in *Tradition*, Summer, 1966, pp. 66ff.). We need not belabor the point that a straight application of Maimonides' decision to our situation would be doing a grave injustice to Torah as well as misreading the intent of the Halakhah. In Maimonides' days, most people were covered by his decision in *Hil. A. Z.*, and the minority of accomplished scholars and sophisticated intellects by the law in *Hil. Yes. ha-Torah*. That was how the Halakhah protected the integrity of faith. Today there may be pockets here and there of those who will live in self-contained communities without any access to the great sources of Western civilization; for them the same decision holds true without change. But most of us, despite our lack of halakhic expertise and our doubtful philosophic sophistication, are such that doubt is ubiquitous with us, and if we do not entertain it yet we surely will be exposed to it before long. For us, and this is the essence of what I am trying to say, the study of Jewish thought, accepting the challenges of modernity, and the anticipation of the doubts that will be imposed upon our children, are an aspect of *Gemara*, according to the decision of Maimonides in *Hil. Yes. ha-Torah* and *Hil. T. T.* (For an analysis of Maimonides' inclusion of philosophy in *Gemara*, see Isadore Twersky, "Some Non-Halakhic Aspects of the Mishneh Torah," in *Jewish Medieval and Renaissance Studies*, ed. Alexander Altmann [Harvard Univ. Press: 1967]).

53. So, from a different perspective, Charles Hartshorne: "Einstein's wonderfully pithy and candid saying, 'I cannot believe in a dice-throwing God' denies exactly what a neo-Socinian affirms. God takes chances on what his creatures will do, under certain natural laws divinely decreed for the world" ("Two Forms of Idolatry," in *International Journal for Philosophy of Religion*, vol. I, no. 1 [Spring 1970]).

54. Deut. 32:4. See Sifre, Haazinu, 307.

55. Gen. 1:28. When God regains His faith in man, after the flood, He again blesses him: Gen. 9:1,2. Blessing thus always accompanies faith, whether by man in God or by God in man.

56. *Avot* 5:3.

MAN AS ONE

Antoninus said to Rabbi: Body and soul can each vindicate itself in judgment. How? The body says: The soul sinned, for since it left me, I lie like a stone in the grave. And the soul says: The body sinned, for since I left it, I fly in the air like a bird.

Rabbi answered: I will give you a parable. To what can this be compared? To a flesh-and-blood King who had a beautiful orchard containing ripening dates. He assigned two guards to watch it, one lame and the other blind. Said the lame one to the blind one: I see beautiful dates in the orchard. Come, carry me and we shall pick them and eat. So the lame one rode on the back of the blind one, and thus they gathered the fruit and ate. After a while, the owner of the orchard came and said: What happened to the dates? Said the lame one: Do I then have feet that I should be able to walk? Said the blind one: Do I then have eyes to see? What did the King do? He placed the lame one on the back of the blind one and passed sentence on them as one.

So the Holy One brings the soul and joins it to the body and judges them as one.

(from the Babylonian Talmud, Sanhedrin 91a, b)

CHAPTER II

THE UNITY THEME: MONISM FOR MODERNS

THE ONENESS of God is universally acknowledged as the foundation stone of Judaism and its main contribution to the world. The theme of the *Shema*, "Hear, O Israel, the Lord is our God, the Lord is One," underlies every single aspect of Jewish life and thought, and permeates every page of its vast literature. So powerful is this vision of God's unity that inevitably it must express the corollary that the divine unity is the source of a unity that encompasses all existence.¹

Nowhere is the idea of *yihud ha-Shem*, the Unity of God, given more poignant and intense expression than in the Kabbalah. In Jewish mysticism the Unity of God is not only one of the mightiest themes, but it becomes a living reality, perhaps the only reality.² God's unity is taken, not alone as an arithmetic proposition, but as the unification of all existence, in all its awesome diversity, through God. It is symbolized, in the Kabbalah, by the unity within God Himself.³

In this chapter we shall examine the treatment of the Unity of God in one expression of the Jewish spirit, the Kabbalah—particularly in the Zohar and in the works of its most recent exponent, the late Rabbi Abraham Isaac Hakohen Kook (d. 1935), Chief Rabbi of the Holy Land; in one sacred institution of Judaism, the Sabbath; and in one famous hymn of the Prayer Book, the *Lekhah Dodi*, a kabbalistic poem which celebrates the Sabbath. Our purpose is not a historical presentation of the monistic strain in Judaism, but rather to see what it can yield for us in the way of instruction: its implications for moderns.

THE WORLD OF DISUNITY

The Zohar, the source book of Kabbalah, regards our phenomenal world as the *alma de'peruda*, the World of Disunity, or Diversity. The unification of existence, the overcoming of this fragmentation, is to be sought in the establishment of the *alma de'yihuda*, the World of Unity, which is the higher unity within God Himself.⁴ The true unity, beyond all others, is that of *Kudesha Berikh Hu*, the "Holy One, Blessed be He," and His Shekhinah, His "Presence" or "Indwelling." The apparent divorce of one from the other is what accounts for all that is wrong with the world. The failure of mankind is to be found in this World of Disunity. The function of man on earth is to help overcome this tragic *perud*, or schism, and reestablish the primordial divine harmony of the Holy One and His Shekhinah, God in His transcendence and His immanence—the World of Unity.

This passion for the Unity of God, for the healing of the breach within Him, was given expression in the most powerful metaphor available. In human life it is the erotic urge which is the most intense symbol of union and oneness. Hence, erotic imagery was freely used in representing the drive for unity and the overcoming of the World of Disunity. (Parenthetically, it is in order to mention Professor Scholem's observation that rarely did the Zohar ever use this kind of symbolism to express the urge for *devekut*, for the *unio mystica*, between God and man, as did the Christian mystics. It was almost exclusively used to designate the *yihud* or unification within God Himself). The Holy One was considered the male element, and the Shekhinah almost always the female element. Shekhinah is thus known by a variety of names, all emphasizing its feminine quality. By thus assigning genders to these different aspects of the Creator, the Kabbalah was able to tap the deepest wells of human experience to express its overwhelming yearning for the *yihud* of God and the firm establishment of the World of Unity.

The Role of Man

This reestablishment of the World of Unity was not considered, by the Kabbalah, an independent divine activity in which man is merely a passive observer who can do no more than exercise theosophic insight. Man is deeply involved with God in this drama of unification. The breach is not intrinsic; that would be a serious departure from the pure monotheism of all Judaism. God is, of course, absolutely one. It is, rather, only apparent. The error and failure that brought about this breach can be traced to man, not God.⁵ It is, therefore, man who must initiate the reunification, and the ascendancy of unity in God is both to be reflected in and caused by unity in man's own life.

The act of *perud*, the conception of the Shekhinah as a *truly* separate entity rather than just an *apparent* distinction in the Godhead, was recognized by the Kabbalah as a danger to monotheism and identified as the primal mystical sin of man. The division introduced between Shekhinah and the Holy One was called, by the Zohar, the Cutting of the Plants (*ketzitzah bi'netiot*), the "Plants" symbolizing the Sefirot. This was the crime of Elishah ben Abuyah, the sage turned heretic, whom the Talmud described as a "cutter of plants" (*kotzetz bi'netiot*). This, too, was the original sin of Adam. By the act of eating of the forbidden fruit, primordial man separated the Shekhinah (represented by the Tree of Knowledge) from the rest of the Sefirot (i.e. the Holy One, represented by the Tree of Life). The punishment for this dualism, the divorce of the Shekhinah from the Holy One, is the silencing of Shekhinah (God's immanence) which now becomes known as "speech without sound" (*dibbur beli kol*) or personified as "the lonely woman" (*ishah galmudah*), and the ordaining of death for mankind. Death was not a new decree issued by God, thus external to man. It is inherent in man in potential, and is awakened by his sin. Death is, in the Kabbalah, also represented by a tree: the *ilana de'mota*. This Tree of Death lies dormant within the Tree of Knowledge and is inactive as long as there is no dis-

ruption between the Tree of Knowledge and the Tree of Life—that is, the Holy One and His Shekhinah. But once the separation is effected, the Tree of Death emerges from the Tree of Knowledge which has been cut off from the Tree of Life. Man must die when he upsets the harmony of the divine unity. His life must therefore be dedicated to the reestablishment of the World of Unity.

In many other ways does the Kabbalah express the idea that the drama of *perud* and *yihud*, of separation and unification, is not a purely theocentric plot, but includes man as a major protagonist in its grand sweep. The Zohar refers to man as the *diyukna de'kalil kula*, the synthesis of all the spiritual forces that went into the work of creation. Man in his pure, pre-sin state reflected the hidden organism of God's own life. In that pure state, according to the author of *Shaarei Orah* (p. 9a), there was a free interchange between the higher and lower worlds. When Adam sinned, order turned into chaos; the Shekhinah was, so to speak, cut loose from the Holy One, and only through the act of redemption will the exiled Shekhinah be reunited with the Holy One in a return to the original divine harmony. Further, human effort, the "impulse from below," evokes a corresponding "impulse from above." The whole unification of God takes place in the soul of man, which is absorbed in the ultimate *yihud*. Hence the remarkable appellation of man as the "Lower Shekhinah" (*Shekhinah Tataah*). The union of Shekhinah and the Holy One which is regarded as taking place, as we shall later explain in greater detail, every Sabbath eve, has its corresponding effect on human life: the scholar is expected to cohabit with his wife on Sabbath eves. Every true marriage, maintains the author of *Iggeret ha-Kodesh* (Joseph Gikatila, later ascribed to Nahmanides), is a symbolic realization of the union of the Holy One and His Shekhinah. Man is thus the active partner of God in the whole process of *yihud*. An agent of the original disruption of universal harmony, he must become the agent of its redemption, restoring the unity of God's Name. The purpose of the performance of every *mitzvah* is, therefore, the act of restora-

tion. Hence, every religious performance is to be introduced by the formula "for the sake of uniting the Holy One and His Shekhinah . . ." This restoration by means of Torah, *mitzvot*, and prayer, with its many mystical intentions (*kavvanot*), becomes the task of man and his function in the universe.

The Sabbath

The quest for *yihud* found particularly strong articulation in the Kabbalah's treatment of the Sabbath. We need not emphasize the importance of the Sabbath in Kabbalah as in all of Judaism. In the Kabbalah, the "Additional Soul" of the Sabbath day became not only an additional capacity for intellectual attainment, as it did with Maimonides and the Jewish rationalists, but a heightened religious sensitivity, an added spiritual dimension "on the pattern of the world-to-come." The Sabbath, according to the Zohar, is the source of all blessings for the six work days. The author of *Shnei Luhot ha-Berit* speaks for the whole kabbalistic tradition when he represents the week diagrammatically as the *menorah* or candelabrum in which the middle flame which points straight upwards symbolizes the Sabbath, and the two sets of three flames each, which point towards the middle one, are the weekdays.

This Sabbath is the day par excellence of *yihud*. We have already mentioned that Friday night is the time of union of the Holy One and His Shekhinah or, as it is otherwise put, the King and His Matron. But in this grand *yihud* the Kabbalah saw many other elements absorbed. All of time is united in the Sabbath. The concentrated essence of the Sabbath, called the "Holy-Point" (*nekudah kaddishah*), is indeed present during the week, but it is obscured. There is no absolute distance between the holy days and the profane days, for by the agency of Sabbath observance—"all those who occupy themselves with holiness during the whole Sabbath day"—the weekdays become absorbed in the Holy Sabbath-Point. On this day the Point is revealed to man as it ascends upward, in the form of the Shekhinah, to be united with the King (or Holy One). Man's whole life, even his ordinary workdays, is thus included in the *yihud* of the Sabbath. Man's participation in this unification

of time is further emphasized by the Zohar's description of the Lower Point (*nekudah tataah*), a sort of counterpoint to the Higher Point (*nekudah ilaah*) and a symbol of human involvement in the Sabbath. It is this Lower Point that banishes all woe and worry on the Sabbath and replaces sadness and anger with the joy that makes it possible for the Additional Soul to arrive. The unification within God on the Sabbath is reflected in a corresponding unification within man on the Sabbath. To this day Hasidim, who follow the Sephardic version of the liturgy, recite, on Friday nights, the passage from the Zohar beginning *ke'gavna* . . . "even as they unite above in the One, so is there a unification below . . . one corresponding to one. . . ."

Not only Sabbath and weekdays, the horizontal aspect of time, but also past and present are united on the Sabbath for the Jew. The Patriarchs are participants in the Jewish Sabbath, representing all of the past and uniting with the present. The Hebrew word *Shabbat*—שבת—is divided by the Zohar into its component letters. The last two letters spell בת, daughter, which stands for the Holy Sabbath Point: the united essence of the whole week, or the Shekhinah with which it is identified. The first letter, ש, is interpreted orthographically, each of the three bars of the letter representing a different one of the three Patriarchs. The unity that prevails on the Sabbath, the Zohar implies, belies any abrupt discontinuity between the sacred past and the mundane present. All history is one continuum of holiness.

Even the material must be united with the spiritual in order to involve the totality of existence in the great *yihud* on the Sabbath, for disembodied spirituality is itself a fragment, a result of *perud*. Hence the importance of eating on the Sabbath, especially the three meals, called by the Zohar the Meals of Faith (*seudata di'mehemenuta*), each involving the participation of another one of the Patriarchs.

All these unifications are but aspects of the central and ultimate *yihud* of the Holy One and the Shekhinah. The erotic metaphor is, therefore, most appropriate to this transcendent union. A number of Kabbalists have even compared the Sab-

bath to a wedding ceremony. Both at a wedding and in the Sabbath *Amidah*, seven blessings are recited. In each there is a declaration of sanctity (*kiddush* in one case, *kiddushin* in the other) over wine. The opening verses of the central portions of the *Amidahs* of the Sabbath have similar significance: "Thou hast sanctified" (*ata kiddashta*) stands for the sanctification of the nuptials (*kiddushin*); "Let Moses be happy" for the happiness of the wedding; the "Additional" prayer (*Musaf*) for the additional jointure of the bride's settlement (*tosefet ketubah*); and "Thou art One" (*atta ehad*) for the coming together (*yihud*) of bride and groom following the ceremony.

Lekhah Dodi

This Unity Theme on the Sabbath is most beautifully expressed in the popular hymn chanted on Friday nights, the *Lekhah Dodi* ("Come my beloved, let us meet the bride, let us welcome the Sabbath"). The poem was composed in the sixteenth century by R. Solomon Alkabetz, the teacher and brother-in-law of R. Moses Cordovero; these, together with R. Isaac Luria (who encouraged Alkabetz to write the hymn), are the leaders of the great school of Safed Kabbalists. The hymn is vastly popular. A measure of its wide acceptance can be seen in the remarkable number of melodies composed for it. There are 540 melodies in the Jakob Michael Jewish Music Collection now with the National Library of the Hebrew University. The Birnbaum collection at the Hebrew Union College contains another 700 *Lekhah Dodi* melodies, with an estimated total of 1300 to 2000 different tunes having been composed for it—so that if a new one were chanted every Friday night, one would not exhaust his repertoire for about forty years! Felicity of style and esthetic excellence can only partially account for the hymn's universal popularity amongst all Jews. It seems that a more basic explanation is the innate and unstudied response to the hymn's major mystical themes,⁶ to the poetry of the soul rather than the poetry of the pen. The praying public may retain or reject a new prayer, especially one whose precise mystical symbolism is clear only to initiates, without being consciously aware of the nature or

causes of its reaction. The worshippers unconsciously respond to the broad themes, the real essence of the prayer which, like the moon obscured behind the clouds, exerts a hidden but inexorable influence upon the ebb and tide of their religious experience in the deepest subterranean channels of their souls. So does the secret of the success of *Lekhhah Dodi* lie in the magnificent sweep of its esoteric Unity Theme.⁷

The Symbols

The symbols in Alkabetz' poem are not always constant. The Sabbath may sometimes be the "bride"; the Talmud already speaks of Sabbath as bride and queen. The groom or beloved (*dodi*) may be Israel. In a famous Midrash, the Sabbath complains to God that while each of the other days has its mate she is being left an old maid—an all too human complaint—and God presents her with her groom, Israel. But no doubt these are secondary to the primary "wedding" or *yihud*: that of the Holy One and His Shekhinah, the true *dodi* and *kallah* of the hymn. On Sabbath the Shekhinah (the Zohar's Holy Point which during the weekdays is in the lower worlds, obscured from both God and man) rises to meet her divine lover, the Holy One. It should be emphasized that not only is Sabbath the time during which the unification is effected, but *Shabbat* is itself identified with Shekhinah, the bride of the Holy One.

An Interpretation of the Halakhah

The first stanza explicitly repeats the Unity Theme. Since the Holy One and His Shekhinah have already been united, God is referred to as the *El ha-meyuḥad*. This union means that God's Name—the first two and last two letters of the Tetragrammaton—which represent, respectively, the Holy One and the Shekhinah, has been reunited, hence: "the Lord is One and His Name is One."

The first phrase of this same stanza is of particular importance to us. *Shamor ve'zakhor be'dibbur eḥad hishmianu*: "observe" and "remember" were spoken in one word. The poet here refers to the well-known Aggadah that both commandments relating to the Sabbath, in each of the two versions of

the Decalogue, were given simultaneously. Both "observe the Sabbath day to keep it holy" and "remember the Sabbath day to keep it holy" were uttered by God at one moment, but were heard separately by the Israelites. In the Halakhah, "remember" represents the positive commandment—the *kiddush* or sanctification of the Sabbath—while "observe" is the negative, the warning to refrain from the thirty-nine categories of *melakhah* or labor. It would not be amiss to say that here, too, in the context of the whole hymn, we have the *yihud* theme and an implicit rationale for the prohibition of *melakhah* on the Sabbath. If Sabbath is the time for and of the essence of *yihud*, then the positive commandment, "remember," is, of course, to be understood as the means for the achievement of this union. But since "observe" and "remember" are but two aspects of a single divine command, then the negative expression of the divine will—the "observe," the refraining from labor—must also contribute to the unification in God. This is indeed understandable in terms of the Halakhah's treatment of the Biblical prohibition of *melakhah* (labor) on the Sabbath. The breakdown of the *melakhah* prohibition to thirty-nine separate major categories, with an untold number of *toledot* or minor categories subsumed under them, signifies the fragmentized nature of the profane days. The unsanctified days are the real World of Disunity. Man's involvement with nature requires of him to atomize his experience in the various arts and crafts by which he sustains himself physically and economically. The fragmentation of his activity is indicative of the inner disintegration of his own personality and spirit. On *Shabbat*, by refraining from any intrusion into the normal processes of nature, he protects, in a negative manner, the integrity of his own personality. He is in a position to pursue the goal of *yihud*, by way of "observing" the Sabbath, without interference and breakdown. During the six workdays, mundane life has broken up man's human experience into a spectrum of thirty-nine colors; but Judaism, through the Sabbath, reunites and re-integrates the diverse colorations of experience into the pure white light of the unique, undivided Creator. The abstention from *melakhah* thus enables man to overcome the World of

Disunity and participate in the Sabbatical unification of the Holy One and His Shekhinah. The Halakhah, which normally presumes a pluralistic universe because it operates in the "real" World of Disunity, thus reveals in its treatment of the Sabbath its ultimate monism.

The Future

The middle and last stanzas of *Lekhah Dodi* speak of the themes of Messiah, the redemption, and peace. The relationship of these to the idea of Unity is obvious. The Shekhinah is in exile together with Israel; the Kabbalah often refers to Shekhinah by the name *Knesset Yisrael*, the Congregation of Israel. The redemption of Israel signifies the reunion of Shekhinah with the Holy One, the beloved. The time we welcome the Sabbath as the occasion for the meeting of the Holy One and His Shekhinah is, therefore, most appropriately the occasion for waiting and hoping and praying for the national *yihud* of which the union of the Holy One and Shekhinah is hypostatic. *Shalom*, peace, is the state at which *yihud* aims, the condition of complete and utter universal harmony and unity. R. Loewe of Prague (the Maharal) declares, in a similar vein, that the present mundane world is that of diversity, whereas the world-to-come is that of oneness—thus extending the principle from Messianic to eschatological times.

THE DANGERS

Before proceeding to apply the insights of Jewish mystical monism to the contemporary world, it is in place to offer a few *caveats*. In a critique of some of the ideas here presented, Dr. Walter S. Wurzbürger has pointed to a number of dangers inherent in this theory.⁸ Thus, Hegel's grandiose attempt to reduce all reality to the One Absolute has led to the emergence of modern totalitarian Marxism. However, I accept it as a truism that the more potent and valuable an idea, the more dangerous its misuse. This should not deter us from pursuing the idea even while remaining alert to its disfiguration and abuse.

Some of Wurzbürger's theological criticisms are more funda-

mental and deserve serious attention. We shall not here refer to them in detail (although his essay will prove most worthwhile and enlightening to the diligent reader); the following remarks are intended both to set my advocacy of monism in its proper perspective and to answer some of his animadversions.

It is true that monism can be overdone. Taken to its logical conclusion, it turns antinomian by declaring all value distinctions illusory and, hence, doing away with law and ethics. Indeed, it tends towards an ontological nihilism, denying the reality of experience; in the extreme, it yields acosmism. Such dangers were incipient in the early Ḥasidic movement which strongly emphasized divine immanence in the world. R. Ḥayyim of Volozhin, the major ideologist of Halakhic Judaism and most important theological critic of Ḥasidism, devoted part of his *Nefesh ha-Ḥayyim* to exposing the latent antinomianism in what he considered the exaggerated Ḥasidic immanentism and its corollary, monism. Thus, he pointed to such occasional lapses as the violation of the prohibition to meditate on Torah in unclean places, and the disregard of the strict time limits for the daily prayers. Both were consequences of Ḥasidic theology. Of the two, the second was more serious, and was the occasion of much internecine debate within Ḥasidic circles.⁹ The first was less significant; some of the early Ḥasidic leaders had already spoken out against the practice.¹⁰

Nevertheless, while these dangers of abuse were theoretically real, they were quite minor in practice. The halakhic roots of the Ḥasidic movement were strong enough to avoid any quasi-Sabbatian backsliding. Ḥasidic theoreticians learned to live with both monism and pluralism, even as they managed to retain the concept of divine transcendence while they gave greatest weight to His immanence. Indeed, both schools accepted a dialectical tension in the polarities. The differences arose primarily in the manner that they sought to resolve them; namely, how the monism-pluralism polarity was related to that of immanence-transcendence.

Briefly, for R. Ḥayyim, undifferentiated immanence is the way God looks at the world, at it were. The monistic, onto-

logically, and axiologically uniform presence of God which leaves all of creation a mere illusion, is "from His side." But "from our side," man's vision of the world and experience, God relates to the world out of His transcendence, His non-identity with the universe, hence allowing for the "real" existence of the cosmos in their richness, variety, and value heterogeneity.¹¹

This position is the reverse of that taken by R. Shneur Zalman of Ladi, the most articulate and profound Ḥasidic theoretician. He regards "from our side" as differentiated immanence, and "from His side" as uniform transcendence, removed beyond all human conception.¹²

Thus, both schools hold on to both polarities. However, while the Ḥasidic school makes immanence pluralistic¹³ and, hence, of immediate concern, the more vigorously halakhist Mitnagdim dismissed immanence as monistic and hence a divine prerogative virtually irrelevant to man in his existential situation, and pointed to pluralistic divine transcendence as the area of meaningfulness for man.

Now this presents us with a problem. If indeed Ḥasidism saw divine immanence—its major emphasis—as differentiated and allowing for value pluralism, whence the critique of R. Ḥayyim? And whence, indeed, the tendency towards a monistic leveling of all differences and categories? The answer must be found in the quite predictable inclination towards a reverence for the world and nature, à la pantheism, by the immanentist.¹⁴ The inherence of divinity in the world tends to overwhelm the boundary lines, to reject the pluralistic mold. Holiness is hard to contain; it spreads out without taking leave. But permission was not granted. These defections noticed by R. Ḥayyim were thus unsanctioned by Ḥasidic theology, even though they were not unexpected because of Ḥasidism's stress on divine immanence and the primitive religious enthusiasm it brought to it.

We have seen, therefore, that even the most ardent monists in the Jewish tradition took great pains to keep it within bounds, to safeguard the pluralistic foundations of the Halakhah, and not to give way to the kind of antinomianism which often

insinuates itself into this theological framework. Both Ḥasidim and Mitnagdim saw a fundamentally unresolvable tension between an ultimate unknowable reality ("from His side") and the necessary cognitive universe of man which, though of a much lower ontological order, is the only one in which he can operate ("from our side"). Both referred the fullness of monism to the divine view, thus effectively sealing it off from encroaching upon halakhic practice, with the difference that while the classical halakhic theologians identified immanence with monism, thus remaining transcendentalists for all practical purposes, the Ḥasidim did the reverse. Hence, while the Unity Theme may legitimately give cause to certain apprehensions, these ought not be overstated as long as it is placed in the framework of normative Judaism, in which the dualism of "His side" and "our side" holds for preeschatological times.

Does this, then, mean that it is commonly agreed that monism is "kicked upstairs," that since it is referred to as the divine as opposed to the human perspective, that it really makes no difference, that it is nothing more than an ineffective metaphysical abstraction?

That this is not so is abundantly evident from the facts of the situation. Kabbalistic monism expressed itself in certain longings and aspirations discussed in this chapter which colored its whole approach to religion and existence. The same, of course, is true of Rav Kook. Monism did, indeed, reenforce the element of quietism that developed in Ḥasidism, and to which a recent major work has been devoted.¹⁵ While the sense of resignation is not dominant in Halakhic Judaism, it would not be correct to declare it "completely foreign to Halakhic Judaism."¹⁶ It is present, in the dicta of the giants of the Halakhah, as a counterpoint to the opposite strand, that of human assertiveness in the presence of pain and suffering.¹⁷ Much more important, even R. Ḥayyim, who sought to place all monistic and immanentistic influences out of bounds, nevertheless permitted them a role in religious life. While vigorously referring practice to the human perspective—pluralistic-transcendental—he assigned the ideal of prayer to the divine perspective: prayer, as an act of spiritual elevation, must aspire to the knowledge of God "from His side," i.e., the nonreality

of all that is not God. This, says R. Hayyim, is what is meant by praying to God as *Makom* ("place").¹⁸ Clearly, R. Hayyim does not banish monistic thought completely.

It is for this reason that I maintain, contrary to Rabbi Wurzburger, that locating a monistic moment in the Halakhah itself, relating to the Sabbath, does no violence to the Halakhah. Seeing in the halakhic proscription of fragmented labor an opportunity presented to man to unify his personality and experience, is no less offensive to Judaism's normative emphases than R. Hayyim's designating *Makom*, God as the cosmos-denying and all-effacing One, as the object of prayer, even though the act of prayer is accepted in Judaism as a legitimate subject of halakhic analysis and legislation. Indeed, the Mishnah itself, contemplating the Sabbath, characterized it as an anticipation of the *eschaton*, "the day of eternal Sabbath."¹⁹

Monism, then, must be prevented from overwhelming all else and destroying the Halakhah, without which Judaism is in shambles. But the Unity Theme, such safeguards granted, must be allowed to exert its beneficent influence on a humanity hungry for some unifying and integrating factor and looking for it where it most appropriately belongs—in religion.

THE IMPLICATIONS

It now remains for us to investigate some of the implications of this idea for modern Jews—modern in a chronological sense only, for the implications we shall draw are valid for us only as long as we locate ourselves ideologically in the context of the Jewish tradition which gave birth to the Kabbalah and especially the Unity Theme. In order to do this we shall move from the esoteric and mystical world of the Kabbalah to contemporary, exoteric modes of thought, and follow some of the consequences of the *yihud* idea in terms relevant to our own current predicament, dealing with problems which are, at most, only penultimate to the transcendent *yihud* of which the Kabbalah speaks.

Disintegration

Modern man and the complex society he has built for himself

are in a state of progressive inner disintegration. Psychologically, socially, and spiritually, he has re-formed himself on the pattern of his new industrial economy. With the obsolescence of the artisan who fashioned the whole vessel, the Whole Man has faded into obscurity. The division of labor, which is indigenous to our modern economy, has begotten many other divisions in many other fields of human endeavor. In professional life, narrow specialization has replaced general practice. Culturally, the expert dominates over men of broad knowledge and general culture. Literature, which should strive for the wholeness of man, has merely reacted to our inner atomization and put under the literary microscope man's baseness and degradation, in which only unrelated pieces of fractured experience are regarded as real, and in which wholeness and higher integrity are considered meaningless abstractions. Literary criticism has turned upon the Bible and replaced its unity with a Documentary Hypothesis which has made of Scriptures a haphazard collection of disparate fragments. Philosophically, the extreme logical positivism of some modern thinkers and their reduction of all issues to linguistic analysis is symptomatic of the same tendency. Man's spiritual and religious life has become a true World of Disunity. Long before the atom bomb struck Hiroshima, the modern world sustained a historic atomization, the fission and dis-integration of man's heart and soul and mind, and the beginning of the end of his *universe*.

Indeed there is a deeper relation between the splitting of the atom and the fragmentation of the Self. The tendency to view existence as divided, in pieces or dualities, in "over-against" terms, must inevitably have a deteriorating effect upon the integrity not only of man's ideological orientation, but ultimately also his social existence. It was Philo who traced war and peace to man's intellectual activity, particularly to his conception of the Deity. War, he said, stems from paganism which, in its elaborate mythology, saw gods locked in combat with each other, spying, stealing, and betraying in order to gain victory. The pagan's theology influenced his anthropology, his view of man. His social *anschauung* was thus compatible with

constant conflict and war—a true *imitatio Dei*. The monotheist, who knew of only One God Who embraces all existence in His unity and Who prefers the state of peace which is the end result of unification, naturally sought peace in his own social and political relationships. A recurrent verse in our liturgy is: “May He Who makes peace up above make peace for us and for all Israel.” A divided society and fragmented polity is the natural result of a World of Disunity.

Yet we are not here addressing ourselves primarily to the obvious fact of the divisiveness of the world politically and militarily, consequential as it is to our very existence. We are emphasizing, rather, the inner peace without which there can be no outer peace, for a fragmented world is merely fragmented man writ large. It is this inner fragmentation of both experience and man’s beliefs and attitudes that must be overcome as the World of Disunity if the social and political integration of mankind into one brotherhood is to be achieved.

It was Rabbi Abraham Isaac Hakohen Kook who gave the Unity Theme its greatest development in modern times. Rav Kook’s concern with man’s atomizing tendencies, and his deep passion for unity throughout all existence, are apparent in almost every page of his writings. Himself a Kabbalist of the first order who was very much aware of the modern world, he bridges the gap between the Kabbalah’s mystical yearning for *yihud* and the need for unity in human affairs. In the following paragraphs we shall draw upon many of his works, but primarily upon the first volume of his *Orot ha-Kodesh*, published in Jerusalem in 1938.²⁰

In contradistinction to the usual interpretations of “holiness,” Rav Kook sees in the concept of the sacred not the element of separation and remoteness, but unity and cosmic harmony. “Sin” is fragmentation, the introduction of dissonance or divisiveness into the harmonious whole. “Repentance,” therefore, marks the reintegration of one’s personality into the divine harmony and the overcoming of the fragmentariness of experience. It can readily be seen that this monism lends itself to an Augustinian-type theodicy: evil and suffering

represent the separation from the whole, and disappear upon successful reharmonization.

Knowledge

Rav Kook sees the need for *yihud* in the transcending of human epistemological limitations. Truth does not reveal itself in parts and pieces; it explodes into the awareness of man in a one-time intuition. But it is only through the slow, piecemeal efforts of the intellect that the mind is prepared for the intuitive grasp.

Now, every act of cognition, he writes, implies an area of error (*tzel*, or shadow). The view of the whole, in proper perspective, must become distorted in the very act of reduction and withdrawal from the whole to the part or specific, a process which is indigenous to the very act of cognition. The more isolated and refined the area of knowledge, the greater the error of *tzel*. (This is reminiscent of Heisenberg's Indeterminacy Principle.) The only way to overcome this inherent defect in man's cognitive life, the only way the shadows can be dispersed and the breach in his intellectual organism healed, is through communion with God Who comprehends all knowledge in His transcendent *yihud*.

The same striving for *yihud* in a spiritual context, or at least an awareness of the severe limitations of our World of Disunity, is the solution not only to the problem of epistemology, but to a related problem in our modern culture: the phenomenon of specialization. The more we are involved in one branch of knowledge, the more we tacitly assume its self-sufficiency, and the more we ignore its relatedness to and dependence upon other branches. Rav Kook was especially annoyed by the specialist's haughty disdain, his willful, transcendental ignorance of other disciplines. This is the way of error and confusion, he taught. All knowledge must be accepted as interrelated, reflecting the fundamental unity of the Creator, if specialization is to yield the desired creative results.

In the same vein, Rav Kook refuses to see an unbridgeable chasm separating religion and science. Religious and scientific knowledge are really one in an objective sense; they stand in

contrast only subjectively. Spiritual insight, as opposed to intellectual comprehension, is characterized by a total view, by grasping all at once; the latter by its nature deals with specifics, with fragments. The practical progress of the world requires quantification rather than the total, unifying grasp of spiritual insight. Yet spiritual cognition and scientific knowledge are only apparently contradictory. It is a psychic gap that separates the religionist's striving for the overall from the scientist's critical eye for detail. It requires genius to be able to overcome this abyss, this division, and arrive at their underlying oneness, recognizing that objectively both forms of knowledge are one.

The *yihud* of knowledge is extended by Rav Kook to the study of Torah. Torah cannot abide artificial distinctions between the inner life of man and the world at large, between human individuality and universality. The emphasis on the Prophets and Writings, as opposed to the Pentateuch, represents an imbalance in favor of inwardness, an imbalance he regards as one of the "great pains of exile." Both the element of Prophecy (and Aggadah) and the legal element, that predominates in the Pentateuch, must be integrated with each other. (This is a somewhat oblique criticism of the Christian—and Emancipation's—usurpation of the post-Pentateuchal portions of the Bible and their spirit-against-letter and love-against-law dualisms.)

Similarly, Rav Kook is unhappy with the chasm that separates Aggadah from Halakhah. Superficially there is a difference between them. The Holy Spirit responsible for the Written Law is different in quality from the Holy Spirit of the Oral Law or Halakhah. Prophecy and Aggadah derive from what might be translated as "idealistic dignity" whereas Halakhah issues from "royal strength." But the world can be set right only when they are united in the soul of the Jew, for the strangeness of the Halakhist in Aggadah and the Aggadist in Halakhah is destructive of spiritual growth. The *yihud* we perform between them merely reveals the preexistent, original identity of Halakhah with Aggadah: they are one and the same. The attempt at harmonization must proceed by searching

for the halakhic norms in the Aggadah, and the fundamental aggadic themes of the Halakhah.

Yihud in the world of knowledge, therefore, applies to Torah as well as to all other branches of wisdom, demanding the integration of all knowledge and the abandonment of artificial barriers in order to achieve a more wholesome view of life, a unified world view which will be built on the specialized sciences and yet transcend them. It should be indicated in passing that in many disciplines, especially the natural sciences, a more integrated, total view is now beginning to find acceptance. In quantum physics, statistical predictions based on group phenomena have replaced the study of individual particles; the motion of a single particle is not examined except in relation to others. Biology has veered towards a more organismic approach, as we shall have occasion to mention again later, and psychology is leaning more and more to a gestalt position. Whether field theory, gestalt, organismic approach, or holism, when the scientific terms are translated into the vocabulary of the Kabbalah, we have: *yihud*—not, of course, the great and transcendent *yihud* of the Holy One and the Shekhinah, but the first baby steps, as it were, leading ultimately to the integration of all knowledge and experience in the oneness of God.

Personality

More serious than the fragmentation of knowledge is the disintegration of personality. And the personal breakdown of modern man, his inability to grasp more than a multiplicity of isolated aspects of life, and his failure to unify his experiences in a comprehensive point of view, is reflected most clearly in the *study* of personality. In the sciences devoted to the study of man and society we usually work from the parts to the whole; we analyze discreet items and then add them together. This emphasis on discreet entities has a long history in Western thought. If Aristotle was unable to fit a new observation into a predetermined category, he created a new one. Hume, setting the prototype for modern positivism, maintained that man can know "nothing but a bundle or collection of different per-

ceptions." On this basis he denied the possibility of knowing the Self. Following him, John Stuart Mill treated all psychological problems as soluble by an atomistic psychology. Hobbes saw society only as an aggregate of self-contained individuals, assimilated through external instruments. One writer, Dorothy Lee,²¹ has seen in this attitude a fundamental pattern of thinking characteristic of Western man. She calls this preoccupation with proceeding from the parts to the whole a "lineal codification of reality," in contrast to the nonlineal approach of other cultures; a difference being, for example, whether we conceive of society as a plurality of independent individuals, or of the individual as a differentiated member of society.

Fortunately, the pendulum seems now to be swinging from an affirmation of the World of Disunity to a quest for the World of Unity, if we be permitted to use these terms freely. Some psychologists now believe that the differences between atomistic and holistic psychology are being resolved in favor of holistic or gestalt concepts, of "molar" as opposed to "molecular" terms. Even Freud, who with his concentration on specific biological needs and his splitting of the Self into Id, Ego, and Superego, seemed to enhance the fragmentation of personality, nevertheless contributed to a holistic or molar approach by bringing into the scope of investigation many other heretofore neglected areas of the Self and treating them all as a continuity. One renowned researcher working on the biology of nervous systems has concluded that only the sick or damaged personality can be understood by examining its parts in isolation; its relation to the world can best be described in segmented, additive terms. A fully functioning person, however, can be described only in holistic terms. The *yihud* theme, understood exoterically and anthropocentrically, is thus a striving for a higher sanity, an escape from the psychosis of the World of Disunity. The *yihud* within God requires a corresponding *yihud* within man, including, as Rav Kook writes, a "merging of intellect and emotion, and the "integration of reason and will"—a reintegration of man's personality in

which his mental oneness will be paralleled by a spiritual unity.

Theology

In his theological thinking, too, modern Western man behaves atomistically rather than holistically. He is heir to a number of dualisms, which he usually accepts uncritically, that have come to him from the ancient Greeks via Christianity, especially the Church Fathers. Thus the distinction between the body and soul, which in Judaism is essentially a diagnostic way of explaining the ethical tensions of man, is for Christianized Western man a stark reality. When the Kabbalah unites, as it does in its interpretation of the Sabbath, the spiritual and material, it denies the bifurcation of man's Self into body and soul as two independent and antagonistic entities. The same can be said for the dichotomy of religious endeavor into faith and works, of religious experience into *eros* and *agape*, or, for that matter, into love (*ahavah*) and fear (*yirah*.) All such Gnostic distinctions are merely apparent. Underneath, they are one, even as the Holy One and the Shekhinah are one. The kabbalistic formula recited before the performance of a *mitzvah* to which we referred previously, includes the phrase *bi'dehilu u'rehimu*—in fear and love. The Kabbalah, with its deep and passionate striving for *yihud*, cannot abide a bifurcated view of life which accepts *perud* as a permanent and inherent quality of all existence.

Of even greater moment is the distinction between sacred and profane. At first glance it would seem as if the very existence of these two categories, not only sanctioned by Torah but crucial to its whole outlook, conveys a sense of *perud*, an absolute distance between the two, so that there can be no underlying unity comprehending both. Yet the truth is that in a religion which did not make of the Devil an independent personality pitted against the beneficent God, thus providing for separate sanctions for the domains of the sacred and profane, but saw Satan as only one of the created angels commissioned by God to execute His Will, there can be no *absolute* distance between holy and unholy. A distinction there certainly

is—the concept of *havdalah* with all its profound ramifications attests to this—but it is accidental rather than essential, apparent rather than real, extrinsic rather than intrinsic. This is the gist of Rav Kook's intention when he remarks that the "foundation of the holy of holies" comprehends both the "subject [or element] of the sacred and that of the profane." Even more poignant expression was given to this idea in a profound homiletic observation by R. Isaac Halevi Horowitz, author of *Shnei Luhot ha-Berit*. In the *Havdalah* service which marks the end of the Sabbath, he remarks, we proclaim the distinction between sacred and profane, light and dark, Israel and the other nations, and Sabbath and weekday. The first two and the last are appropriate to the occasion. But what is the relevancy of the *havdalah* between Israel and the other nations in this context? He answers that there is a difference not only between Jew and non-Jew, but between the Jewish and non-Jewish understanding of the whole concept of *havdalah*. The Gentile conceives of an *absolute* separation between the sacred and the profane. The Jew, contrariwise, understands that the gulf between sacred and profane is introduced not to signify a permanent and irreconcilable dualism, but to allow the sacred to be confirmed in its strength and purity so that it might return and sanctify the profane. From this point of view there is no holy and unholy; there is just the holy and the not-yet-holy. This is identical with Rav Kook's assertion that the holy of holies includes the sacred *and* the profane.

Basically, this insight pertains most strongly today. We modern Jews have, in our daily life and habit, adopted the *havdalah* concept of the non-Jewish world. We have conducted our affairs on the unspoken presupposition that there is an unbridgeable gap between the two categories, each isolated in its own cubicle. We go about life as if the American political doctrine of the separation of church and state were a metaphysical dogma. The modern Jew factually confines the expression of his religious convictions to several holy places and holy moments, not to the entire week and every place. The "Holy Sabbath-Point" of the American Jew's Sabbath, unlike

that of the Zohar, has no relationship to the six workdays. Despite his clearly defined occasions of holiness, which may be sincerely intended and genuinely experienced, he permits himself spiritual vulgarity, or spiritlessness, in the material endeavors of life. Emotionally he is unrelated to his spiritual dimension. We are different things to different people, different people to ourselves. Finding ourselves, when within the large area of the profane, thoroughly insulated from the influence of the holy, we are not only at an infinite distance from God, but broken and fragmentized within, our knowledge unrelated and our experiences unintegrated. Our entire world is as much in danger from mankind's internal fission as it is from the fission of the atomic nucleus. The powerful secularism of our day, which recognizes the sacred only so long as it promises not to encroach upon the privileged domain of the secular, is a reassertion of the non-Jewish concept of *havdalah*, a theology which we, in our *yihud*-obsessed world view, cannot accept lest it disarm and emasculate the very essence of holiness whose function it is to fructify the profane and secular.

This position on the basic, underlying relationship and dialectic of sacred and profane implies a critical reevaluation of the whole educational structure and philosophy of most of Orthodox Judaism today. Such an analysis is undertaken in the next chapter, where Rav Kook's views are compared to those of R. Samson Raphael Hirsch.

CONCLUSION

We have seen how the theme of the oneness of God, fundamental to every manifestation of Judaism, is expanded by the Kabbalah—especially in its treatment of the Sabbath and in the beautifully expressed *Lekhah Dodi*—to an overwhelming, burning passion for the unification of all life and existence, in all its multifarious aspects, in the unity of God. Where the earlier Kabbalists, as in the Zohar, were satisfied to articulate this theme in purely mystical terms, as the union of the Holy One and the Shekhinah, its later exponents, and especially Rav Kook, increasingly applied this thesis to the current, real

world, the World of Disunity. Man, as an active participant in the *yihud*, must exert himself mightily in order to overcome the disintegrating tendencies of life and society. We have seen how the modern manifestations of the striving for unity, the transcending of petty dualisms and fragmentizations, are gradually making themselves felt. Philosophically, psychologically, theologically, we must begin to move from an atomistic to a holistic position.

What of the future? We must again return to Rav Kook in whose life and works are so magnificently combined substance and charm, power and elegance, the sudden insight of the kabbalist and the responsible thinking of the intellectual—the personification of the *yihud* which he preached and for which he yearned. *Bo yavo*, Rav Kook proclaims. It shall come. It must come. For the Jew, who cannot by his nature bear disunity in his soul, it will appear in his people's redemption. The Diaspora, the national realization of fragmentation and disunity, is only ephemeral and basically unreal; sooner or later, Israel shall become "one nation upon earth." And *yihud* will come for all mankind. The future unification of all knowledge, all peoples, all existence is inevitable. Redemption for Israel and peace for all men will mark the World of Unity which is surely coming, and which can be brought on even faster by our own efforts.

"And the Lord will be King over all the earth; on that day the Lord will be One and His Name will be One."

NOTES TO CHAPTER II

1. Amongst Jewish rationalists, Maimonides was the first to assert the unity of existence as flowing from the unity of the Creator: "Know that this Universe, in its entirety, is nothing else but one individual being. . . . The variety of its substances . . . is like the variety of the substances of a human being: just as, e.g., *Said* is one individual, consisting of various solid substances such as flesh, bones, sinews, of various humours, and of various spiritual elements. . . . You must, therefore, consider the entire globe as one individual being living through the motion of the sphere, which is endowed with life, motion, and a soul. This mode of considering the universe is . . . indispensable, that is to say, it is very useful for demonstrating the unity of God; it also helps to elucidate the principle that He who is One has created only *one* being. . . . There also exists in the Universe a certain force which controls the whole, which sets in motion the chief and principal parts, and gives them the motive power for controlling the rest. Without that force, the existence of this sphere . . . would be impossible. It is the source of the existence of the Universe in all its parts. That force is God, blessed be His name!" (*Guide to the Perplexed*, 1:72). Cf. Yehudah Even Shmuel's (Dr. Y. Kaufman) Introduction to his edition of the *Guide* in Hebrew, *Moreh Nevukhim*, Mosad Harav Kook, (Jerusalem: 1959) Vol. I, p. xlii-xliii. The Kabbalists, of course, greatly elaborated on this theme. See, for instance, Part III of *Netzah Yisrael* by Rabbi Loewe of Prague (the Maharal), and Part III of *Nefesh ha-Hayyim* by Rabbi Hayyim of Volozhin.

2. Monism, of course, has a respectable place in non-Jewish thought, both mystical and philosophical. All of mysticism tends towards monism, though there are important differences between its Eastern and Western varieties. The striving for the One is well-known in Neoplatonic thought. Plato himself sees an essential unity underlying all of existential diversity. His monism, however, consists not in the denial of knowledge, but in the integration of experience through *ratio*. "In Plato, both divine inspiration and mathematical science lead man upward—geometry leads to God. His world is one, unbroken in its dynamic tension" (Paul Friedlander, *Plato: An Introduction*, Pantheon [New York: 1958], p. 78). A theme similar to the one presented in this chapter has been pressed in recent years, but in a non-Jewish and nontheistic form, by a number of Western Orientalists, notably Aldous Huxley.

3. We shall dispense with individual references to the kabbalistic sources. Readers will find most of them in the Zohar to *Beshalah*, *Yitro*, and *Va-yak'hel*. Those who wish to pursue the matter further in secondary sources may refer to Gershom G. Scholem's *Major Trends in Jewish Mysticism*, Schocken (New York: 1946), especially pp. 225-235, and in Hebrew, to P. Lachover and Y. Tishbi, *Mishnat Ha-Zohar*, Hashiloah Press (Jerusalem: 1949), pp. 219-263.

4. The World of Unity is that of the ten Sefirot which in the Kabbalah are not, as are the Neoplatonists' emanations, static steps mediating between the Absolute God and the phenomenal world. They exist, rather, within God; they are the "unified universe" of God's life.

5. This holds true for the Zohar. For Luria, the "breaking of the vessels" implies a dissonance in the cosmos preceding the creation of man. See Y. Tishbi, *Torat ha-Ra ve'ha-Kelipah be'Kabbalat ha-Ari*, Schocken (Jerusalem: 1963).

6. There was an initial hesitation in accepting the hymn as part of the service in some communities. Thus, Worms never adopted it officially, and Frankfurt a.M. gradually effected a form of compromise, whereby the hymn was chanted only in the Old Synagogue and not during the official time of prayer, and was not accepted at all in the New Synagogue. As synagogues proliferated in the community, the *Lekhah Dodi* was recited, but the cantor would remove his *tallit* for the occasion. See, in detail, the monograph by Yitzhak Yosef Cohen, *Seder Kabbalat Shabbat u-Pizmon Lekhah Dodi* (Jerusalem: 1969). The author attributes this reluctance to a general aversion to changing or adding to the formal traditional service. It is possible, however, that the German congregations in particular were sensitive to the mystical content of the theme or, at least, the reputation of its author as one of the foremost Kabbalists.

7. Philip Birnbaum (*Sefer Hashanah li-Yehudei America*, Vols. viii-ix [1947], p. 345) has shown that virtually the entire poem is composed of scriptural passages or paraphrases. Nevertheless, as we shall see, the hymn in its entirety as well as in the verses selected by the author, imply the longing for unity which is a fundamental kabbalistic notion.

8. Walter S. Wurzburger, "Pluralism and the Halakhah," in *Tradition*, Vol. 4, No. 2 (1962), and reprinted in *A Treasury of Tradition*, ed. Norman Lamm and Walter S. Wurzburger, Hebrew Publishing Co. (New York: 1967).

9. On both questions, and on R. Hayyim's religious philosophy in general, see my forthcoming volumes to be published by Ph. Feldheim (New York and Jerusalem) in English, and Mosad Harav Kook (Jerusalem) in Hebrew. A description of a wedding famous in Hasidic history, in which the issue of late prayers came to the fore, may be found in Yitzhak Alfasi's "*Ha-hasidut*," *Zion* (Tel Aviv: 1969), pp. 10a ff.

10. See, for instance, *Noam Elimelekh, Hanhagot ha-Adam*, #20.

11. *Nefesh ha-Hayyim* 3:4.

12. *Shaar ha-Yihud ve'ha-Emunah* Chap. 7; *Likkutei Torah to Re'eh* s. v. *Ani le'Dodi*.

13. See the citation from Luria in *Shaar ha-Yihud ve'ha-Emunah*, Chap. 1.

14. See references to R. Nahman of Bratzlav and others in chapter VI of this book on Ecology.

15. Rivka Shatz Uffenheimer, *Ha-hasidut ke'Mystikah*, Hebrew University Press (Jerusalem: 1968).

16. Wurzburger, *loc. cit.*

17. See Ephraim E. Urbach, *Hazzal: Pirkei Emunot Ve'deot*, Hebrew University (Jerusalem: 1969), Chap. 15.

18. *Nefesh ha-Hayyim* 3:14. An additional and important subtlety should be mentioned. For R. Hayyim, this world-denying, distinction-shattering Oneness of the divine perspective is in itself only part of a polarity (with the affirmation of a real and separate world) from the point of view of God's relatedness to the world. Still beyond this divine perspective remains the absolutely transcendent *En-Sof*, the *mysterium tremendum* for Whom even the relationship of acosmism, by virtue of its being a statement of relationship, is transcended. One might state this philosophically rather than theologically: monism and pluralism are held in some kind of tension-balance with each other by some even more comprehensive, more ultimate monism. Cf. Elmo A. Robinson, "Random and Non-Random: Monism or Dualism?" in *The Crane Review* (Spring 1962), p. 151.

19. Mishnah, end *Tamid*.

20. The theme is also alluded to by Rav Kook in his letters and in his *Olat Re'iyah*, Mosad Harav Kook (Jerusalem: 1939) and, indeed, in most

of his works, many of which are now being published, and others which are still in manuscript. For the English reader interested in the biography of Kook, and a general discussion of his mystical monism, Jacob B. Agus' *Banner of Jerusalem*, Bloch (New York: 1946) may be recommended. The best source for Kook's harmonism is the English translation of Professor Nathan Rotenstreich's *Jewish Philosophy in Modern Times: From Mendelssohn to Rosenzweig*, Holt, Rinehart and Winston (New York: 1968), Chap 7.

21. Cited in Helen Merrell Lynd, *On Shame and the Search for Identity*, Harcourt, Brace and Co. (New York: 1958), pp. 73 ff.

CHAPTER III

TWO VERSIONS OF SYNTHESIS

FROM THE very beginning of Jewish history, Judaism has, for better or for worse, experienced some interaction with its surrounding culture. A great part of the Bible is a warning, both explicit and implicit, against assimilating the cultic pagan practices.

However, with the rise of Greek philosophy and the prominence given to reason and a more sophisticated culture, some Jews began to expose themselves to the non-Jewish modes of thought and to fall under their influence. Gradually, individual thinkers such as Philo in Alexandria and, later, as in the "Golden Age" in Spain, whole schools concerned themselves with the direct confrontation of traditional Judaism and Western thought.

With the Emancipation, this confrontation was no longer confined to a few individuals or even schools. The interaction between Judaism and the culture of the host people was now of major import to the Jewish community as a whole. The variety of responses to this massive challenge of Western civilization is represented by the spectrum of Jewish allegiances extant even today. They range from a complete abandonment of Judaism and Jewish loyalties to an utter and complete rejection of Western philosophical and scientific ideas. In-between there exists a graduated fragmentation, a kind of Maxwellian distribution of interpretations.

Our purpose, at present, is to analyze two versions of one particular type of response to the challenge of modernity, one that is more than a mere arithmetic decision on the proportion

of Jewishness to be admitted in the make-up of the "modern Jew."

The "Modern Orthodox" Jew in America represents the product of such a response resulting from the confrontation between authentic halakhic Judaism and Western thought. He is a novel kind of Jew, a historical experiment in the reaction to the great dialogue. His survival and success may very well have the most fateful consequences for Jewry and Judaism throughout the world.

What is the peculiar nature of this new type of Jew? "Synthesis," a word long favored in the circles of Yeshiva University, the major school of American Orthodoxy, is the term we shall use for the response to the Jewish-Western dialogue. What is meant by Synthesis? What are the religious and cultural dimensions of the personality formed as a result of the encounter between traditional Judaism and modern non-Jewish culture, or in the language of the Rabbis, between *Torah* and *Hokhmah*?¹

There are, in the framework of what has come to be called Orthodox Judaism, two main theories of Synthesis that share certain fundamental features and yet diverge from each other in significant ways. These interpretations are to be found in the writings of two distinguished Jews of modern times who were deeply concerned by the confrontation of Torah and Wisdom. (In a great measure they also represented and realized in themselves these ideals—for Synthesis is not an abstract theory that can be discussed, much less realized, *in vacuo*; it is an event or process that takes place in the personality.) One, is Rabbi Samson Raphael Hirsch (1808-1888), a West European Rabbi who has had a lasting influence on contemporary traditional Judaism. The other, is the late Chief Rabbi of the Holy Land and originally an East European, Rabbi Abraham Isaac Hakohen Kook (1865-1935), whose general views were adumbrated in the last chapter. The present chapter is an elaboration and application of his theory to the area of education.

Hirsch was one of the giants of German Jewry. As a leader and educator he was eminently successful. He was per-

sonally responsible for the flourishing *Denkglaubigkeit*—or enlightened Orthodoxy—that survives him to this day. Thoroughly Jewish, and also a completely modern Western man, he aspired to bring about a harmony between—or “synthesize”—the two traditions and outlooks. He tried to formulate a Jewish Humanism, demonstrating that the Humanism so popular in the Europe of his day had Jewish roots. Hence, his superman, the *Yisroelmentsch*. And hence, too, his great educational program of Synthesis under the slogan of *Torah im Derekh Eretz*.

Torah and Wisdom were not regarded by Hirsch as deadly enemies, requiring from us an either-or choice between them. It is true that he gave Torah primacy over secular education if a choice had to be made.² But from his critique of Maimonides and Mendelssohn who approached Torah “from without,” and from his development of his autochthonous attitude to Judaism,³ we get the impression that Hirsch believed in the original identity of Torah and the secular disciplines which now appear but in different forms. One cannot speak, therefore, of an essential conflict between them. But if no conflict is theoretically or essentially possible, neither can there be any meaningful dialogue between them. They can cooperate, even as the limbs of the body cooperate and coordinate; but they cannot interact and speak to each other, even as a sane and balanced person does not talk to himself. Hirsch does not say this explicitly, but it is an inescapable conclusion and one that will appear more significant when contrasted with the position of Rav Kook. The Synthesis of Hirsch is pleasant, harmonious, charming, and creative. The secular studies help us to understand Torah more deeply,⁴ even as the Torah tells us how to contemplate nature and listen to history.⁵ Considering the long estrangement of Jews from secular studies since the Golden Age of medieval days, and the unhappy record of the relations of science and religion in European history, this was a courageous attitude and a refreshing approach. His stature must be assessed from this background, as well as against the contemporary isolationism of East European Jewry. Hirsch tried to show, in the words of his translator, Bernard

Drachman, that "Orthodox Judaism was not maintained solely by the superstitious or narrow-minded older generation that had never been initiated into the science or the culture of the age."⁶

Yet it is precisely a statement of this sort that makes us wonder about the sufficiency of the Hirschian interpretation of Synthesis for contemporary Orthodox Judaism. For Hirsch it was important to produce a Westernized Orthodox Jew in order to refute the charge that Judaism is a collection of old superstitions. For Drachman in the America of his day, at the very end of the nineteenth century, a college education and a Ph.D. were social necessities lest Torah Jews be classified as narrow-minded. Surely modern American Orthodoxy has progressed beyond the state where it has to prove itself, where an English-speaking Orthodox Rabbi with a university education is an unusual phenomenon.

Perhaps this statement by Hirsch himself will allow the reader to feel the temper if not the contents of his particular brand of Synthesis: "Pursued hand-in-hand, there is room for both [Jewish and general studies], each enhancing the value of the other and producing the glorious fruit of a distinctive Jewish culture which at the same time, is 'pleasant in the eyes of God and man.'"⁷ He seems to be delighted that he can avoid those intellectually bloody conflicts between religion and science, that he can steer clear of the ragged edges of discord between Torah and Western Wisdom. "Hand in hand" they will walk, and appear "pleasant" in the eyes of all. There is something placid as well as idyllic and utopian in this vision. It is too easy, too gentlemanly, too "cultured," or, if one may say this, too bourgeois.

The slogan *Torah im Derekh Eretz* would not be appropriate to the Synthesis envisioned by Rav Kook, as it emerges from his *Orot ha-Kodesh* (Jerusalem: 1938) and his courageous address at the opening of the Hebrew University in Jerusalem.⁸ Torah "with" *Derekh Eretz* or secular wisdom implies that they keep a respectable distance from each other, like neighbors who remain courteous as long as they do not become too intimate. Torah "and" *Derekh Eretz* would be more fitting for the Kook

version of Synthesis. For there is a decided difference between these conjunctions.⁹ Torah "and" *Derekh Eretz* suggests a meeting of two powerful personalities, the two of them coming to grips with each other, with the very serious question of whether this engagement will be an embrace or a wrestler's head-lock.

For Rav Kook, the educational problem is treated, not in a cultural, but in a metaphysical frame. The categories with which he operates are those of *kodesh* and *hol*, sacred and profane, and the issue transcends, therefore, the demonstration that Orthodoxy is not narrow-minded or superstitious. Rav Kook speaks of two tendencies of the Jewish spirit. One is directed inwards; it is a deepening of the sacred, and is represented by the traditional yeshivot. The other is an outward one, relating the within to the without. Just as the intensification of the sacred is embodied in the old-type yeshivah, so the relating of the sacred to the secular is the function of the university.¹⁰ (We must forgive Rav Kook if, despite his courageous criticism and warnings issued at the time, he allowed himself the extravagance of imagining that the Hebrew University would fulfill the lofty mission he assigned to it; hindsight is always wiser than foresight. But his analysis is valid.) It is the second tendency, the centrifugal motion of the sacred to the secular, that is of utmost consequence to us. The merging, or synthesis, of Torah with Wisdom is not meant to make up for some lack of Torah, but rather to create something new and original in the world of the spirit through these combinations.¹¹ Kook tells us that the sacred is not antagonistic to science, but first he reminds us that it vitalizes all, it is that which gives life to the secular disciplines.¹² *Kodesh* and *hol* are functionally and indissolubly related to each other. "The sacred must be established on the foundation of the profane."¹³ They are related to each other as matter to form—the secular is matter, the sacred, form—and "the stronger the secular, the more significant the sacred."¹⁴ Just as the body must be healthy in order for the spirit to flower, so secular knowledge should be of superior quality if the sacred is to benefit.¹⁵ This intimate relationship of sacred and secular is

given its strongest expression when Rav Kook writes that the *yesod kodesh ha-kodoshim* comprises both the element of the sacred and the profane.¹⁶ This implies the significant notion, which Kook later states explicitly,¹⁷ that there is nothing absolutely profane or secular in the world. There is no absolute metaphysical category called *hol*; there is only the holy and the not-yet-holy. This Kook version of Synthesis is the very antithesis of secularism, which recognizes the sacred only in its insularity. Kook's centrifugal *kodesh* is so overpowering and outgoing, that *hol* or the profane loses its absolute character even before its encounter with the sacred. It is, as it were, fated from its creation to submit to the sacred.

Having denied the absolute character of the profane, does this imply a blurring of the distinction between *kodesh* and *hol*? The answer is an emphatic No. It is worth repeating an observation here that we cited in the last chapter. Rabbi Isaiah Halevi Horowitz, in his famous *Shnei Luhot ha-Berit*, asks: why, in the *Havdalah*, is the distinction between *Yisrael la-amim* mentioned? The other distinctions—between light and dark, Sabbath and weekday, sacred and profane—are all appropriate to the *Havdalah*, but that between Israel and the nations seems irrelevant. He answers that there is a significant difference between Israel and the nations in how they conceive of the distinction between sacred and profane, etc. The non-Jew conceives of an absolute separation between them. The Jew, however, believes that the gulf between *kodesh* and *hol* is meant not to introduce a permanent and irreconcilable dualism, but to allow the sacred to be confirmed in its strength and purity so that it might return and sanctify the unholy.¹⁸

This is how Rav Kook conceives of the relationship of *kodesh* and *hol*. There is a *havdalah*, so as to allow for the intensification of the sacred in its centripetal motion;¹⁹ and this, itself, is prelude to its outward, centrifugal movement, where it reaches for the profane and transforms it into the sacred, a transmutation for which it has been waiting from the moment of creation. The fact of קדש leads to the act of קידוש.

This brief survey of Hirsch and Kook can give only the barest idea of the similarities on the one hand, and the differences

on the other. Both men and the *Weltanschauungen* they represent are relevant to our day and the shaping of Jewish destiny. Each represents a different version of the Synthesis which is the most characteristic aspiration of Modern Orthodox Judaism and the major purpose of such institutions as Yeshiva University. Hirsch, the aristocratic pedagogue, and Kook, the poetic Kabbalist, both inspire admiration and deserve our gratitude. Yet basically, Hirsch is the cultural thinker and educator, while Kook is the metaphysician and mystic. Hirsch's Synthesis is one of coexistence, hence essentially static. Kook's is one of interaction, and hence dynamic. Hirsch is an esthete who wants Torah and *Derekh Eretz* to live in a neighborly, courteous, and gentlemanly fashion. Kook is an alchemist who wants the sacred to transmute the profane and recast it in its own image. From the point of view of Kook, it is not enough to raise a generation of Orthodox Jews who will also be cultured Western men, admirable as this ambition may be. It is not enough to bear the two cultures as parallel lines which can meet only in infinity. It is urgent that there be a confrontation and an encounter between them. In the Kook version of Synthesis, there must be a qualitative accommodation of both studies; for the secular studies are not inherently and eternally unholy, and the *limudei kodesh* are sterile unless they have something not-already-sacred to act upon. The *limudei ḥol* are part of the drama of *kiddush*.

For Hirsch, the direction of the interaction is from the profane to the sacred, that is, the secular disciplines are employed to order, define, and assist the sacred and place it upon a firm scientific basis. For Rav Kook, who demands interaction as the central theme of Synthesis, the motion goes in both directions. The less important one is the kind we have just mentioned, the rationalization, explanation, and adornment of the sacred by the profane. Kook calls this a right-to-left motion. Far more significant and consequential is the left-to-right motion: the radiation of *kodesh* towards *ḥol*, ennobling it, raising it to the loftiest levels, sanctifying it, impregnating it with meaning and purpose.²⁰ Thus, whatever the interaction between *kodesh* and *ḥol* in the Hirschian brand of Synthesis, it will be

something on the order of using chemistry to clarify a problem in *Yoreh Deah* or mathematics to settle a problem of the *luah*. The dynamic relationship demanded by the Kook Synthesis emphasizes the use of Halakhah in defining for the chemist or mathematician how to shape his approach, his purpose, his significance in the world. It requires the mastery of Torah so as to teach the *ben Torah* how to grapple with the mundane, stubborn issues of ordinary life and make them yield to the light of Torah. The encounter of Torah and Wisdom has, as its goal, to "create in the world new souls, and give life a new, thriving, healthy form."²¹ In a word, Hirsch's *Torah im Derekh Eretz* aimed at bringing both disciplines together in one person; Kook's *kodesh-hol* dialogue strived to bring them together in one *personality*—in shaping it, inspiring it, vitalizing it.

Fifty or seventy-five years ago, in the conditions that prevailed in this country, Synthesis, even of the Hirschian type, was a utopian, wild, audacious vision. It was the kind of idea which practical, hard-headed men dismiss as visionary, and which visionaries are much too impractical to implement. To hold forth this Synthesis as an ideal was an act that demanded courage and boldness. Synthesis as such is no longer a dream, no longer an experiment. American Orthodoxy today is a realization of Hirsch's vision and, given the conditions of our society, nothing but a Hirschian Synthesis can be the first goal. American Jewry has produced not only individuals but a whole community of people who live *Torah im Derekh Eretz*. Considering the vicissitudes to the past seventy-five years—the uprooting and the immigration, the *Hurban Eiropa* and the State of Israel, the economic growth and the social changes, the scientific revolutions and intellectual displacements—such an achievement can be classified only as heroic.

The whole edifice of traditional Judaism in this country today rests upon this dual Hirschian educational foundation. From the Kook perspective, however, we may be guilty of a cultural schizophrenia in our attitude to secular and religious studies, equivalent to what, in *Shnei Luhot ha-Berit*, is regarded as the theological schizophrenia in the non-Jewish

understanding of the two categories themselves. Whether we relegate the sacred studies to an hour on a Sunday morning as Reform does, or strive for the minimum secular studying required by state law as the Hasidic schools do, or somehow try to accommodate both on an approximately equal schedule as modern *yeshivot* do, the courses of study are departmentalized, unrelated, and merely coexist in splendid isolation from each other within the individual student. The differences between the above systems thus seem to lie in the quantitative distribution of the time allotted for each discipline. Yet this is decidedly not in keeping with the vision of Rav Kook. As long as this unrelatedness continues, we may be guilty of wasting the resources of the sacred for the profane. State law or economic necessity or social needs are not an answer sufficient to define a consistent philosophic position. What is required, rather, is the fundamental acknowledgment that the secular studies are not inherently and eternally unholy, and the sacred studies are sterile unless they have something other than the sacred to act upon. There is no blurring of the distinctions between sacred and secular. But there is an appreciation of the function of the sacred in relation to the secular. The secular studies are important not *despite* the fact that they are not holy, but *because* this is the way in which all life, all knowledge, all existence is ultimately integrated in the great *yihud* of the Holy One and His Shekhinah. Eventually all that is profane (not-yet-holy) is to be found in and sanctified through the Torah, for which reason—according to Rav Kook—it is called *de'kullah bah* ("containing everything") and is regarded as the fulfillment of God's blessing of Abraham *ba-kol* ("with everything"—Genesis 24:1).

However, this ideal of Synthesis envisioned by Rav Kook is a difficult, dangerous, and uncertain one. Because Kook's dynamic conception affects personality, rather than mere co-existence in a person, as with Hirsch's more static version, it can operate only in chosen individuals rather than on a broad, public scale. For a Kook-type Synthesis requires a deepening of scholarship, the development of singular thinkers who, steeped in Jewish learning, especially Halakhah, will be able

to sanctify the profane which they will know with equally thorough scholarship. Rav Kook has set a high goal: להשקיף, על החול מתוך אספקלריא של קודש²², i.e., to view the secular from the vantage of the sacred.

Hirsch's Synthesis is not easily attained, Kook's even less. Tension is an indispensable concomitant of Synthesis of any variety. Anxiety and doubt and perplexity are necessary side-reactions of the act of Synthesis. Thus Hirsch writes to his fictitious young friend: "Do not think our time so dark and helpless, friend; it is only nervous and uncertain, as a woman in childbirth. But better the anxiety that prevails in the house of a woman about to give birth, than the freedom from anxiety, but also from hope and joy, in the house of the barren one."²³ These words of comfort and encouragement strike home to those in American Orthodoxy today who are concerned by the constant self-examination and critical self-evaluation in its ranks. They are signs of creation and birth.

Rav Kook speaks of Synthesis and the accompanying anxiety in similar terms.²⁴ He quotes Isaiah, ופחד ורחב לבבך, "and thy heart shall tremble and be enlarged" (Isa. 60:5). The dynamic Synthesis of Kook is fraught with danger and risk. *Pahad*, fear, is inescapable. The centrifugal motion of *kodesh*, the sanctification of the profane, suffers from a historical ambivalence, as when it appeared in the controversy surrounding the translation of the Torah into Greek. Whenever there is an encounter of sacred and profane there must be *pahad*, for who knows but that instead of the *kodesh* converting the *hol*, the *hol* will master the *kodesh*, as in Anatole France's novel, *Thaïs*. If it is security and freedom from fear that is sought, then it is sufficient to withdraw into hermetically sealed ghettos or vanish into easy assimilation; the confrontation between Judaism and world culture is then either avoided or ended. But if neither world is to be relinquished, and they are even allowed to act upon each other, then one must accept *pahad* and the sense of crisis and all the neurotic tensions that come with it. He who enters into this dialogue of Torah and Wisdom must tremble at the risks inherent in this kind of Synthesis, even while acknowledging that it is his duty to undertake it. Many

human casualties have already resulted, and there are more yet to come, from this historic program of Synthesis. Rav Kook was not troubled by this phenomenon. On the contrary, he reminds us that those who approached the encounter without *paḥad* were failures—most of their descendants were assimilated and subsequently lost to our people. Only if there is *paḥad* can there be hope to experience the second part of the Prophet's verse: ורחב לבבך, "thy heart shall be enlarged," true joy and exultation.

1. "הנה אלהים בגלותו" חורבן, 170.
2. S. R. Hirsch, *Judaism Eternal*, ed. Dayan I. Gruinfeld, Soncino (London: 1958) vol. 1, 170.

1. "הנהגת חסידים בלשון חזונו" עמ' קצ"א-קצ"ב.
2. S. R. Hirsch, *Judaism Eternal*, ed. Dayan I. Grunfeld, Soncino (London: 1958), vol. I, p. 170.
3. *The Nineteen Letters of Ben Uzziel*, trans. Bernard Drachman, Bloch (New York: 1942). Letter XVIII. Hirsch is severe in his criticism of Maimonides who, he maintains, merely "reconciled" Judaism with Greek philosophy, i.e., philosophy was superadded to Judaism, distorting it in the process, rather than allowing a philosophy of Judaism to issue from within the Jewish tradition autochthonously. Maimonides was "the product of uncompromised Judaism and Arabic science" and "was obliged to reconcile the strife which raged in his own breast" (p. 181). He blames Maimonides for emphasizing abstract rational principles as opposed to action and deed as the highest expression of Judaism. "This great man is responsible, because he sought to reconcile Judaism with the difficulties which confronted it from without, instead of developing it creatively from within. . . . He entered into Judaism from without, bringing with him opinions of whose truth he had convinced himself from extraneous sources—and he reconciled!" Yet it is not entirely fair to accuse Maimonides of "reconciliation," with the implied derogation of withoutness. Maimonides, like Saadia before him, believed in the common origin of reason and revelation, hence of philosophy and Torah (cf. Julius Guttmann's Introduction to Chaim Rabbin's translation of the *Guide*, East and West Library [London: 1952], pp. 9–31). All discrepancies must then be considered as only apparent, and these are to be "reconciled," but this can hardly be subject to the accusation of stepping out of the realm of Judaism to introduce, subversively as it were, alien ideas. Once the original identity of Torah and Wisdom is granted, such a charge is irrelevant. When Maimonides makes use of Aristotelian terminology and methodology, he is no more "without" the pale of Judaism than is Hirsch himself when he employs the dialectical modes of Hegelian thought popular in his day, albeit without mentioning their source (cf. Noah H. Rosenbloom, "The Nineteen Letters of Ben Uzziel," *Historia Judaica* [April 1960], pp. 23–60, especially p. 58).
4. Zvi Kurtzweil, "Samson Raphael Hirsch," *Tradition* (Spring 1960), p. 296. Compare the attitude of R. Elijah, the Gaon of Vilna, as reported by his student, R. Barukh of Shklov. The Gaon urged that as much of secular knowledge be translated into Hebrew as possible, because אלא כד שכיח דכתיב ויפטר מן העולם הזה ויהיה לו חלק לעולם הבא (Talmud Bavli, Berakhot 61b).
5. *Nineteen Letters*, p. 197.
6. *Ibid.*, p. xxi.
7. *Supra*, n. 2.
8. Reproduced in
9. Cf. the difference between מורה נבוכים and ספר המדע (see also below).
10. *Hazon ha-Golah*, loc. cit.
11. *Orot ha-Kodesh*, vol. I, p. 63.
12. *Ibid.*, p. 3.
13. *Ibid.*, p. 145.
14. *Ibid.*, p. 145, also p. 64.

15. *Ibid.*, p. 65.
16. *Ibid.*, p. 64.
17. *Ibid.*, p. 143—*אשר באמת הולך למלך בעולם* 177.
18. The interrelationship of *Kiddush* and *Havdalah* is evidenced in the Halakah too. Thus Maimonides (*Hil. Shabbat*, chap. 29) defines *Havdalah* as the *Kiddush* performed at the end rather than the beginning of the Sabbath. Similarly, the *Kiddush* of Friday night implies the element of *Havdalah* or separation of Sabbath from the preceding profane days. See especially Maimonides, *Seder Hamitzvot*, pos. com. #155; and cf. my article, "Al Mitzvat Kiddush," in *Hadarom* (Fall 1970).
19. This requirement for the sacred to deepen within itself before it undertakes the venture of sanctification of the non-sacred has certain practical consequences. It necessitates, for instance, the existence of the "old fashioned" *yeshivot* which are fully devoted to Torah study, alongside the "modern" *yeshivot* where the actual interaction takes place. Cf. the remarkable letter by Rav Kook in *Iggerot Re'iyah* I, 206-7, also quoted in 105-6: "בשר ודם לא יוכלו להבדיל בין קדש ופגם, בין טהור וטמא, בין אלוהים ובשר."
20. *Orot ha-Kodesh*, I, pp. 68f.
21. *Ibid.*, p. 63.
22. *Ibid.*, p. 143.
23. *Nineteen Letters*, p. 201.
24. *Supra*, n. 8.

WHAT IS MAN?

What are we? What is our life? What is our goodness? What is our virtue, our help, our strength, our might? What can we say to Thee, Lord our God and God of our fathers?

Heroes are as nothing in Thy sight, men of renown as though they never existed, the learned as though they were ignorant, the wise as though they were unintelligent. Most of their actions are worthless in Thy sight, their entire life a fleeting breath.

Man has no preeminence over beast, for all is vanity.

Yet, from the first Thou didst single out mortal man and consider him worthy to stand before Thee. Who can say to Thee: "What art Thou doing?"

Even if man is righteous, what does he give Thee? Thou, Lord our God, didst graciously grant us this Day of Atonement, ending in the complete forgiveness of all our iniquities, that we may cease to do violence, that we may return to Thee and wholeheartedly observe the laws Thou hast willed.

(from the Yom Kippur Prayer Book)

CHAPTER IV

MAN'S POSITION IN THE UNIVERSE

THE "GIANT LEAP for mankind" that landed the first man on the moon was but the most dramatic symptom of a subtle and profound change in man's conception of his own role in the universe, a process that has been centuries in the making. Technology has now forced upon us a consideration of philosophical and theological challenges that we can no longer avoid, no matter how reluctant we may be to engage in such examination and reexamination.

In the next chapter we shall turn our attention to a number of specific issues that are bound to be raised by our technological progress, such as the response of theology to the possibility of extraterrestrial intelligent and sentient life, and the laboratory synthesis of living material. The present chapter will undertake to explore two different points of view with regard to man's conception of his own role in the world, views which go back eight and ten centuries and which anticipate some of the reorientation that has forced itself upon our collective consciousness in our times. A philosophy of man's position in the universe first appears in Jewish sources in the works of Saadia Gaon. In the Gaon's analysis of the primacy of man, we find crystallized a vague inclination never clearly elaborated before.¹

It is in Saadia's *Kitâb al-Amânât w'al-I'tikâdât*² that we find a systematic statement of an anthropocentric conception of man in the world. Man becomes the "goal of creation,"³ and the "axle of the world and its foundation."⁴ This anthro-

pology is not a casual idea for Saadia; it is an integral part of his whole outlook. It was anticipated by Saadia, himself, in his *Commentary to the Sefer Yetzirah*, written about two years before the *Emunot ve'Deot*,⁵ and influenced later generations of Jewish thinkers.

Saadia's major contribution to traditional anthropocentrism is the idea of the centrality of the middle. For the Gaon, what is structurally the middle is axiologically the central, the most important.⁶ The notion that the middle is the main point, the axis about which all else revolves, and that the periphery is secondary to it, comes quite naturally to one raised in a geocentric milieu.⁷ In the Introduction to the *Emunot ve'Deot* Saadia already finds the occasion to state his thesis:

... it being acknowledged that whatever is highly prized is kept in the center . . . such [a position of distinction] is already accorded by us to man, who dwells on earth, which is the center of the universe.⁸

Saadia bolsters this argument and "proves" his anthropocentrism based on the superiority of the middle in what would today be called a "scientific" demonstration. He extrapolates from his observations of nature to his philosophy of man. Thus, the kernel lodges inside the fruit, because it is more precious than the latter. The yolk of the egg, from which springs the young fowl, is in the center. The heart of man, which is the "seat of his soul," is in the middle of the breast, and the power of vision is located in the center of the eye.⁹ Thus, Saadia's empirical observations lead him to the generalization that "habit and nature place whatever is most highly prized in the center of things which are themselves not so highly prized."¹⁰ Saadia thus rejects any biophysical or metaphysical uniformity of all phenomena, and maintains that the differences between man and all the rest of creation are not only morphological but also teleological.¹¹

Only one argument—again, based upon empirical "facts"—is yet needed to prove his major contention that man is the *mekhuvan ha'beriah*, the goal of creation, that

even though we see that the creatures are many in number, nevertheless, we need not be confused in regard to which of them constitutes the goal of creation. For there exists a natural criterion by means of which we can determine which one of all the creatures is the end . . . we find that the goal is man.¹²

That argument is the astronomical one. Since the earth is in the center of heaven, says Saadia, following the accepted Ptolemaic science of his day, with the heavenly spheres surrounding it on all sides, it follows that the thing which was the object of creation must be on the earth. Investigation of this earth reveals that earth (in the sense of one of the four elements) and water are both inanimate, and hence unworthy of being the goal. Neither can the beasts be the purpose of creation, for they are irrational. Hence, it can be only man, and we are left with "the certainty that he must unquestionably have been the intended purpose of creation."¹³

It should be pointed out in passing that, in reaching the climax of his argument, Saadia suddenly abandons his strict acceptance of the structural argument identifying the value-center with the middle. Having established that the earth is in the center of the heavens, Saadia then proceeds to use the rationalistic criterion of superiority. Had he followed the geometric idea to its logical end, he would have had to locate the goal of all creation in the very center, the bowels of the earth. This would not have been an innovation of his own, for he undoubtedly knew that the Pythagoreans posited a center consisting of pure fire, the most precious of the four elements, which was itself the pole about which the earth revolved.¹⁴ While accepting, therefore, Ravidowicz's emphasis on Saadia's contribution of the theory of the middle to Jewish anthropocentrism,¹⁵ we must not overstate Saadia's reliance on the structural pattern.

As the goal of all creation, man, for all his frailty—of which Saadia is so well aware and upon which he comments with such brooding sadness—becomes the condition of the world's existence. Were body and soul deprived of their activity, "there

would be no sense to their creation. But if the creation of these two have no meaning, then the creation of heaven and earth and what is between them too would be futile, since the entire universe was created on account of man."¹⁶ No wonder, then, "that is why God placed man in the center of the universe surrounded by everything."¹⁷ Man's cosmic importance is enhanced by the fact that without him, all else is purposeless and meaningless—an exaggeration which particularly disturbed Maimonides and which he considered logically indefensible.¹⁸

Of course, it should be understood in speaking of Saadia's anthropocentrism, that this refers merely to the phenomenal world, the created universe. In a larger, and ultimate sense, it is God Who is the center and goal of all. Saadia never denies his ultimate theocentrism. It is only in the arena of the created world that man attains his position of preeminence as the *telos* of all else.¹⁹ This is clearly implied in the *Emunot ve'Deot*, Part IV, Chapter I, where Saadia develops the theme of superiority of man to his mastery over all the rest of creation, and from there to a yet higher aspect of his superiority, namely, his ethical freedom. This power of free choice and the gift of wisdom, by which Saadia means the whole range of human talents from the technological and the social to the scientific, constitute the true eminence of man, and these in turn make him capable of being subject to divine command and prohibition. Thus, the ultimate purpose of man's superiority is—his responsiveness to the *mitzvah* of God; and, hence, his position of subordination to Him who commands. More explicit statements of the relative nature of Saadia's anthropocentrism may be found not in the *Emunot ve'Deot*, but in his *Commentary to the Sefer Yetzirah*. There, Saadia shows that since God dwells amongst the Children of Israel ("I am the Lord who dwelleth amongst the Children of Israel" [Ex. 35:34]), hence, again following the structural analogy, it is God who is the purpose and goal of all existence (since He is "in the midst of Israel," which Saadia implicitly identifies with mankind).²⁰ The place God occupies in the world is analogous to that of life in the living body; thus the divine Name *Hei ha-Olamim*.²¹

Saadia's *Commentary to the Sefer Yetzirah* offers another source, in addition to the structural argument of *Emunot ve'Deot*, for his anthropocentrism. The very first chapter of the *Sefer Yetzirah*, according to Saadia's edition, establishes parallels between human faculties and the letters of the Hebrew alphabet.²² Now, since, according to the mystical theosophy of the *Sefer Yetzirah*, the alphabet has cosmic significance, then man too must have central importance in the divine scheme.

As was mentioned previously, it is the appeal to the astronomy of his day that clinches Saadia's structural argument for the primacy of man. It is instructive, therefore, to pursue the relation of Saadia's astronomical theories to his philosophical conception of the role of man.

Crucial to the anthropocentric position is the uniqueness of our universe, that is, as the Ptolemaic theory conceived it. The uniqueness of the universe is a doctrine taught, in opposition to many of the pre-Socratic philosophers, by Plato, Aristotle, and the Stoics. Philo considers the Unity of the World as one of the eight principles of Scriptural religion, and states, though without proof, that this doctrine is taught by Moses.²³ Aristotle maintained that the world is limited and finite—a system of concentric spheres, in which the outermost sphere is the “top” of the universe. He rejected the suggestion that there may be many such worlds of concentric spheres. According to Aristotle and Philo, therefore, the earth remains the absolute center of creation.²⁴

It is this position which Saadia, too, accepts. He categorically denies the possibility of the infinity of the heavens, or of the infinity or even plurality of systems of concentric spheres of earths and heavens. The uniqueness of the world is for Saadia an “unshakeable conclusion.”²⁵ Saadia is thus in direct opposition to Hasdai Crescas who was later to dismiss Aristotle's contentions as “a vanity and a striving after wind,” and to maintain, on purely rational grounds, that extension is infinite, there being no limit to space, and that there are probably many worlds—according to Wolfson, the number of Crescas' many worlds may rise to infinity.²⁶ It should be remembered

that in Crescas' many or infinite number of worlds, each system has its own center, unlike the conception of Bruno later, and that, therefore, if we are to assume, as in medieval philosophy we must, that geometric position has value significance, then Crescas must maintain a relativistic position on central values, i.e., each earth, or the appropriate creatures on that "earth," are the "goal of creation" of that system.²⁷

It has been mentioned that for Saadia, man is the crown of all creation, but is absolutely inferior to the Creator. But we must yet determine more exactly where in the Great Chain of Being man is located. Jewish tradition has, after all, interposed between God and the material universe a whole series of incorporeal, spiritual beings, called angels, who are also creatures of God and hence absolutely inferior to Him. The question, therefore, is: is man above or below the angels in value? The question is of importance in defining for us the extent of Saadia's anthropocentrism.

The problem was one that had also been discussed in Islamic circles. Ibn Hazin relates that some Muslim theologians considered that the Prophets were superior to angels, while others held that even ordinary pious people occupied higher stations than the angels.²⁸

It has been widely accepted that Saadia considered man, as such, superior to the angels. The source is Abraham Ibn Ezra's commentary to Genesis (1:1), where he attributes this theory to Saadia only to disagree with him strongly. Most writers on Saadia have unqualifiedly accepted Ibn Ezra's report.²⁹ Ravidowicz, however, has called the whole report into question and has maintained that we have no source to support this contention and that, on the contrary, we may suppose that Saadia affirms the superiority of angels over mankind.³⁰ It is true, Ravidowicz maintains, that the Talmud has granted man such preeminence,³¹ but not so Saadia. It seems that this view is adopted by M. Ventura, too. According to him, Saadia believes the human body to consist of elements more pure than any terrestrial substances and less pure than celestial bodies and angels—hence man is lower than the angel.³²

I believe, however, that Ravidowicz is too bold in denying Ibn Ezra's interpretation. Maimonides seems to have accepted it in its entirety. Undoubtedly Maimonides had Saadia in mind when he wrote:

Hence be not misled in your soul to think that the spheres and the angels have been brought into existence for our sake. . . . Consider, accordingly, your substance and that of the spheres, the stars, and the separate intellects; then the truth will become manifest to you, and you will know that man and nothing else is the most perfect and the most noble thing that has been generated from this [inferior] matter; but that if his being is compared to that of the spheres and all the more to that of the separate beings, it is very, very contemptible.³³

Furthermore, from the very nature of Saadia's developing thesis one is forced to conclude that he attributed to man superiority over spiritual beings as well. Saadia sees man's greatness, as has been mentioned before, in his freedom of will and in his worthiness in being commanded by God.³⁴ In the Jewish tradition the angels, despite their lofty station, are not free agents and are not therefore subject to Torah and *mitzvot*. Logically, therefore, one must derive from Saadia's argument the superiority of man over angels. Saadia almost says so explicitly when he concludes his reasoning with the statement:

Should anyone, however, imagine that there exists some other being outside of man that is endowed with such superior qualities, then let him show us these qualities or even some of them in some other creature. Such a being, however, he will never discover.³⁵

Finally, a careful reading of Ibn Ezra shows that his ascription of human superiority over angels to Saadia is no mere guess or "interpretation" on his part, but quite evidently something he read explicitly in writings of the Gaon available to him at that time.

Thus, Ibn Ezra writes:

Do not pay any attention to the *words of the Gaon* who says that man is more excellent than the angels. I have already explained in the *Sefer Ha-yesod* that *all his proofs* are reversed.³⁶

Ibn Ezra is here referring to specific and explicit "words of Saadia" and to "proofs," that is, a well-developed rationale. Such evidence, from one who lived so much closer to the time of Saadia than we, cannot be lightly dismissed.

From the above it would seem, therefore, that for Saadia the primacy of man holds sway over the entire range of the creation, angels included.³⁷ It is a pervasive and thoroughgoing doctrine which brooks no compromise: man is the *mekhuvan ha-beriah*, the "goal of creation," and even the sublime spiritual beings are conditioned by man.

Saadia's theory of anthropocentrism can be authenticated, as has been mentioned, by various passages in Biblical and midrashic literature. His particular contribution to this theory, that of the supremacy of the middle, is original in the sense of emphasis, especially as he leads it to his philosophical conclusion of the primacy of man in the cosmos. However, this too has roots in earlier literature, both Jewish and non-Jewish.

Ravidowicz³⁸ mentions one Talmudic³⁹ and one midrashic source⁴⁰ for Saadia's concept of the centrality of the midpoint. Actually, there are many more such texts, including the Jerusalem Talmud.⁴¹ There are also many parallels in the Zohar.⁴²

We have already mentioned that, in Greek thought, the Pythagoreans developed the idea of a central luminary about which all else, including the earth, revolves. Clearly, this is the Saadianic concept of the centrality of the middle. Plato, in his *Timaeus*, places the earth in the center of the world. According to Plutarch, Theophrastus relates that in his old age Plato repented of having placed the earth at the center, which should have been reserved "for a worthier body."⁴³ Aristotle too implies that Plato changed his mind from the

theory he propounded in *Timaeus* and later accepted the Pythagorean idea of a central fire.⁴⁴ Whatever the astronomical details, the general idea of the superiority of the middle is not questioned by the Pythagoreans or Plato, even in his advanced age, and these, together with the Talmudic tradition cited above, provide the background for Saadia in his fuller and more elaborate exposition of this thesis.

However, Greek thought itself produced an idea which is exactly the reverse of the one mentioned. It is Aristotle who disagreed not only with the details of his master's astronomy, but with the more elementary notion of Plato, which he had probably carried over from his own predecessors, that the middle is the superior position. Aristotle maintains that "the most important and precious part of the world" is not the center, but rather the "limit" or periphery.⁴⁵ The universe being a system of concentric spheres, the outermost are hence the most significant and are composed not only of fire, of the kind found on earth, as Plato had believed, but of "celestial matter" as opposed to the "elementary matter" of earth.⁴⁶ By the same token, the most middle position is the most inferior, making earth and its inhabitants considerably less glorious than the Pythagorean and Platonic tradition would have us believe.

This is how Prof. Arthur O. Lovejoy describes the view of man and his world held by those who accepted the Aristotelian concept of the inferiority of the middle:

It has often been said that the older picture of the world in space was peculiarly fitted to give man a high sense of his own importance and dignity; and some modern writers have made much of this supposed implication of the pre-Copernican astronomy. Man occupied, we are told, the central place in the universe, and round the planet of his habitation all the vast, unpeopled spheres obsequiously revolved. But the actual tendency of the geocentric system was, for the medieval mind, precisely the opposite. For the centre of the world was not a position of honor; it was rather the place farthest removed from the Empyrean, the

bottom of the creation, to which its dregs and baser elements sank. The actual centre, indeed, was Hell; in the spatial sense the medieval world was literally diabolocentric. And the whole sublunary region was, of course, incomparably inferior to the resplendent and incorruptible heavens above the moon. Thus, Montaigne, still adhering to the older astronomy, could consistently describe man's dwelling place as "the filth and mire of the world, the worst, lowest, most lifeless part of the universe, the bottom story of the house."⁴⁷

There seem to be, then, two casts of mind, two a priori orientations, diametrically opposed to each other: the older one, with its Pythagorean roots in Greek philosophy, accepted by Plato, and tacitly accepted in Jewish literature,⁴⁸ what we might call the *centripetal* value-structure, one which Saadia accepted and attempted to "prove" empirically in order to validate his anthropocentric notions; the other, what we may call the *centrifugal* value-structure, propounded by Aristotle, and which held sway over most of the medieval thinkers.⁴⁹

Not the least of those in the latter group, those who accepted the centrifugal bias of Aristotle, is Maimonides. And just as Saadia was led by his centripetalism to anthropocentrism, so Maimonides was led by his centrifugalism to reject completely the Saadianic view of man as the *mekhuvan ha-beriah*.

In his youth, Maimonides accepted the old, anthropocentric view. In his commentary on the Mishnah (*Sepher ha-Maor*) he asserts that "in general it ought be known that all that exists in the sublunar region exists for the sake of man alone."⁵⁰ Although man cannot always discern the purpose of certain species, especially the smaller ones such as in the insect world, it is only because of the limitations of his own intellect. "It is impossible that every herb, every fruit, and every species of animal life, from elephants to worms, should not be of some use to man."⁵¹ Proof of that fact is the discovery, in every generation, of new uses of different fruits and herbs. If all exists for man, what then is the purpose of man himself? It is false to assume that his reason for existence is to eat, drink,

procreate, and build; these latter are but ancillary to his main purpose which is singular: to perceive intellectual "secrets," to gain true ideas, especially of the unity of God, and the like.⁵² Maimonides here closely follows Saadia who, however, sounds somewhat less severely rationalist:

Afterward, employing the speculative method, we inquired into what it could have been that distinguished man, and we found that his distinction above the rest of creation was due to the wisdom with which God had endowed him and which He had taught him, as Scripture says: "He that teacheth man knowledge" (Ps. 94:10).⁵³

However, by the time he began writing his *Mishneh Torah*, Maimonides had already abandoned his anthropocentric ideas. His astronomy, presented in *Hilkhot Yesodei ha-Torah*, is what we have called centrifugal: the outermost spheres are superior to the earth, the center about which they revolve.⁵⁴ It is noteworthy that not only did Maimonides not feel it necessary to adopt anthropocentrism in order to strengthen the underpinnings of Halakhah (which does not take anything beyond man into consideration), but he discarded such a view of man in the very introductory chapters of his great halakhic code! Obviously, Maimonides held that the validity of the Halakhah does not require an anthropocentric presupposition.

So pronounced do these views become in the *Guide for the Perplexed*, that one scholar declares that Maimonides regards anthropocentrism as one of the three most fundamental errors that prevent man from arriving at true conceptions, and that Maimonides geared the whole *Guide* to a refutation, both direct and indirect, of these notions. By maintaining that, although man remains superior in the sublunar world, he is trivial when compared to the totality of existence which transcends the phenomenal world, Maimonides "was the first who dared to remove man from the throne of glory upon which he had seated himself, and in this he anticipated science which waited until the abolition of the geocentric theory [in the

seventeenth century, with the new theories of Copernicus and Galileo],” the same scholar asserts.⁵⁵

Final causes, Maimonides maintains, can only be sought for that which is created, not of the eternal and uncreated. Hence, according to Aristotle who holds that the universe is eternal, there is no occasion to search for the final cause of the whole universe. Moreover, according to Aristotle, “no ultimate end should be sought for any part of the world.”⁵⁶ The causes under discussion should not be confused with the kind of causes established by natural scientists who investigate but limited areas of the world, and whose causes are immediate rather than ultimate. (Maimonides here adds parenthetically that the economy of immediate causes is the best [i.e., teleological] proof of creation.) It should be added that Maimonides refers to external final causes only; that is, that, according to Aristotle, there is an immanent purposefulness to the universe, both in its parts and in its totality. Thus, the ultimate cause of all genera is the preservation of the cycle of growth and destruction; but this is an immanent, not an external final cause.

The above holds true for Aristotle and all those who espouse the theory of the eternity of the universe. What, however, of those who follow the Bible and the theory of creation? There are some who believe, says Maimonides—and here he clearly intends Saadia—that since the universe is created, it must have a final purpose, and that final purpose is man, so that he might better be able to serve God. Everything, therefore, was made for man; “. . . even the heavenly spheres revolve only in order to be useful [to the human species] and to bring into existence that which is necessary for it.”⁵⁷ While Maimonides grants that some passages in the Prophets apparently support this view of man and his importance in the universe, the whole theory is erroneous.

Maimonides shows the fallacy in Saadia’s view by a logical attack. If you assume that all the universe was created for man’s sake, then we must ask whether or not God could have created man without first bringing the previous creations into being. If the answer is yes (and the reader is obviously ex-

pected to give this answer, for otherwise we risk placing a limit on divine omnipotence), then what is the object and purpose of all these things, since they supposedly were created not for their own sake but for the sake of man, which, as just established, could very well have gotten along without them? Moreover, if the universe exists for the sake of man, and man for the sake of serving God, as Saadia believes, then we must ask further: what is the purpose of serving God, since He is perfect and does not *need* man's worship?

Hence we must conclude, says Maimonides, that all of creation has as its final purpose the will or wisdom of God, which is identical with His essence:

For this reason, to my mind, the correct view according to the beliefs of the Law—a view that corresponds likewise to the speculative views—is as follows: It should not be believed that all beings exist for the sake of the existence of man. On the contrary, all the other beings, too, have been intended for their own sakes and not for the sake of something else. Thus, even according to our view holding that the world has been produced in time, the quest for the final end of all the species of beings collapses. For we say that in virtue of His will He has brought into existence all the parts of the world, some of which have been intended for their own sakes, whereas others have been intended for the sake of some other thing that is intended for its own sake. Just as He has willed that the human species should come to exist, He also has willed that the spheres and their stars should come to exist; and He also has willed that the angels should come to exist. In respect of every being He intended that being itself. . . .⁵⁸

Maimonides finds support for this conclusion in a number of Scriptural texts which he interprets accordingly. Thus, "the Lord hath made everything *le'maanehu*" (Prov. 16:4) is translated "for the sake of Himself" (rather than "for its own sake" or for "his" sake, the "his" being indeterminate and possibly referring to man). More explicitly, "everything

that is called by My Name, I have created it for My glory" (Isa. 43:7), the term "My glory" (*li'khevodi*) meaning "for My essence." "That is to say, everything that is described as My work has been made by Me for the sake of My will and for no other purpose." Similarly, a study of Genesis reveals that each part of the creation is declared to be the result of the will of God, and was not made for the sake of some other part. This, says Maimonides, is the meaning of *ki tov*, "it was good," repeated after every major act of creation: that is "good" which is in accordance with the object which God had in mind when He called it into being.⁵⁹

The construction of the physical universe itself reveals how unwarranted is the anthropocentric assumption. After discoursing on the enormity of the interplanetary or interstellar distances (and the medievals, while not thinking in terms of light-years, did appreciate the immense distances encountered in astronomy⁶⁰), Maimonides comments:

Consider how vast are the dimensions and how great the number of these corporeal beings. If the whole of the earth would not constitute even the smallest part of the sphere of the fixed stars, what is the relation of the human species to all these created things, and how can one of us imagine that they exist for his sake and because of him and that they are instruments for his benefit? This is the state of things when the bodies are compared. How then would things look if you consider the existence of the intellects?⁶¹

It is because God willed each object to exist that it exists; that is its true final cause, and it is folly to seek any other external *telos* that displaces this primary reason for existence:

Thus we are obliged to believe that all that exists was intended by Him, may He be exalted, according to His will. And we shall seek for it no cause or other final end whatever. Just as we do not seek for the end of His

existence, may He be exalted, so do we not seek for the final end of His will. . . .⁶²

It is, therefore, a mistake to think that the angels and spheres were created for our sake. Isaiah (40:15) correctly describes our situation when he declares, "Behold, the nations are as a drop of a bucket."

A knowledge of the true station of man in the universe enables him to cope with the perennial problem of evil. Al-Razi, among other "ravings" and "ignorant notions," believed that there exists more evil than good.

The reason for this whole mistake lies in the fact that this ignoramus and those like him among the multitude consider that which exists only with reference to a human individual. Every ignoramus imagines that all that exists exists with a view to his individual sake; it is as if there were nothing that exists except he. And if something happens to him that is contrary to what he wishes, he makes the trenchant judgment that all that exists is an evil. However, if man considered and represented to himself that which exists, and knew the smallness of his part in it, the truth would become clear and manifest to him.⁶³

The difficulties in theodicy are, thus, directly traceable to the anthropocentric error. When man really knows his true condition he will be able to appreciate the subjectivity of evil.

Thus Maimonides totally disagrees with Saadia (whom he never mentions in this context). Agreeing with Saadia that empirical considerations can lead us to a correct philosophical evaluation of man's place in the world,⁶⁴ Maimonides presents us with a different set of facts, with a preference for the Aristotelian centrifugalism as opposed to the Pythagorean and Platonic centripetalism accepted by Saadia, and concludes therefrom that man is preeminent only on earth, but not beyond it and, hence, it is absurd to speak of all the universe having been created for his sake. Man should know his true value,

so that he should not make the mistake of thinking that what exists is in existence only for his sake, as an individual. . . .What exists is in existence because of the will of its Creator; and among the things that are in existence, the species of man is the least in comparison to the superior existents—I refer to the spheres and the stars. As far as comparison with the angels is concerned, there is in true reality no relation between man and them. Man is merely the most noble among the things that are subject to generation, namely, in this our nether world. . . .⁶⁵

This dethronement of man from the position of honor accorded him by the anthropocentrists does not in the least disturb the intellectual equanimity of Maimonides. Man retains significance even if his hegemony extends merely over earth instead of all the cosmos and spiritual beings. Man's possession of reason is sufficient to grant him superiority over other terrestrial creatures, and to qualify him as similar to God:

Now man possesses as his proprium something in him that is very strange as it is not found in anything else that exists under the sphere of the moon, namely, intellectual apprehension. In the exercise of this, no sense, no part of the body, none of the extremities are used; and therefore this apprehension was likened unto the apprehension of the diety, which does not require an instrument, although in reality it is not like the latter apprehension, but only appears so to the first stirrings of opinion. It was because this something, I mean because of the divine intellect conjoined with man, that it is said of the latter that he is *in the image of God and in His likeness*, not that God, may He be exalted, is a body and possesses a shape.⁶⁶

It is this gift of intellect which marks man off from the rest of nature and which constitutes the Image of God:

For the intellect that God made overflow unto man and that is the latter's ultimate perfection, was that which

Adam had been provided with before he disobeyed. It was because of this that it was said of him that he was created *in the image of God and His likeness*. It was likewise on account of it that he was addressed by God and given commandments, as it says: *And the Lord God commanded*, and so on. For commandments are not given to beasts and beings devoid of intellect.⁶⁷

Man's intellectual endowments are sufficient to make him responsive to the divine command, to the whole of Torah. These rational gifts, fully developed by man in his pristine state before the sin of Adam,⁶⁸ qualify man for the greatest imaginable ambition: the knowledge of God, both in its purely philosophic sense and in the sense of leading to man's moral life by means of *imitatio Dei*.⁶⁹ There is no need to exaggerate man's importance, and to exercise a kind of racial or global arrogance, in order to discover the sources of man's significance and uniqueness.

NOTES TO CHAPTER IV

1. In the Mishnah a number of statements appear, all favoring a strong anthropocentrism. But these references cannot be accorded real philosophical significance, because they are probably hyperbolic homilies characteristic of a didactic literature. See, for instance, *Kohélet Rabbah* 7: 28; *Shab. 151a* and *Sanhedrin 107a*. Also, *Berakhot* 32: 2. Except for occasional references to the Arabic original, all quotations are from Ibn Tibbon's standard Hebrew translation, the *Emunot ve Deot* (hereafter abbreviated to *EVD*). English translation will generally follow Samuel Rosenblatt's *The Book of Beliefs and Opinions*, volume I of the Yale Judaica Series, Yale University Press (New Haven: 1948).
3. *EVD*, IV: Introduction: המורה נבוכים. In the Arabic (*Khiab al-Amnah* . . . ed. S. Landauer, Brill [Leiden: 1880]), p. 146: 4. *al-Fil*.
4. *Ibid.*, Chapter I: המורה נבוכים. In the Arabic (p. 147): *المقدمة*.
5. Mayer Lambert, *Commentaire sur le Sefer Yesirah* (Paris: 1891), p. vii. 6. For a discussion of this point, see *Sefer Yesirah* (Paris: 1891), p. vii. 7. *Ravdim*, No. 1, p. 54.
8. *EVD*, Introduction, Chapter 5: המורה נבוכים. *المقدمة*, p. 147: 4. 9. *Ibid.*, p. 180.
10. *Ibid.*
11. *Ravdim*, No. 1, p. 57.
12. *EVD*, IV: Introduction: *المقدمة*, p. 147: 4. 13. *Ravdim*, No. 1, p. 57.
14. M. Ventura, *La Philosophie de Saadia Gaon* (Paris: 1934), pp. 85-86. For Saadia's reference to the fire-centrality of the Pythagoreans, see *EVD*, Introduction, Ch. 6.
15. See *supra*, n. 6.
16. *EVD*, VI: 4: *المقدمة*, p. 195.
17. *Ibid.*, X: 1: *المقدمة*, p. 195.
18. *Guide for the Perplexed* III: 13.
19. *Ravdim*, No. 3, p. 195.
20. Lambert, *op. cit.*, p. 48; also, Saadia's *Commentary* on Chapter I of *al-Fil*, p. 71.
21. *Ibid.*, p. 91 (commentary to Chapter IV, par. 1).

22. *Ibid.*, p. 2 (commentary to Chapter I, par. 3); also, Lambert's introduction, p.v. It should be emphasized that this is the authentic Saadia commentary and ought not be confused with the spurious work attributed to him and probably composed by a disciple of R. Eleazar of Worms. See Gershom Scholem's *Major Trends in Jewish Mysticism*, p. 87; Salo Baron, *A Social and Religious History of the Jews*, Vol. VIII, p. 286, n. 25, and p. 299, n. 6. The article by Louis Ginzberg in *The Jewish Encyclopedia* (Vol. XII, p. 606), however, makes no mention of the pseudoeptigraphic Saadia commentary to the *Sefer Yetzirah*.
23. Harry Austryn Wolfson, *Philo*, Vol. I, p. 181. Wolfson maintains that Philo notwithstanding, Jewish tradition teaches that simultaneously with our world God created 196,000 other worlds, and that Eden, which is beyond Paradise, contains 310 worlds.
24. Harry Austryn Wolfson, *Crescas' Critique of Aristotle*, Harvard University Press (Cambridge: 1929), p. 117.
25. *EVD* I:1 הנצחא הגלגליה (1929), p. 117.
26. For Saadia, however, from the statement of the Talmud that "God rides on His swift cheurb and roams over 18,000 worlds" (*A.Z.*, 3b). Saadia turns to this issue in his *Commentary to the Sefer Yetzirah* (Lambert, p. 19). For an interpretation of Saadia's statement, see the original article from which this chapter is taken, *Jewish Quarterly Review* (Vol. LV, No. 3) January 1965, and the correction by Professor Wolfson, which I accept, in *Jewish Quarterly Review* (Vol. LVI, No. 3) January 1966, p. 245f.
26. Wolfson, *Crescas*, p. 217 and p. 117.
27. For Crescas' views on different centers, see *ibid.*, p. 474, n. 130.
28. Ventura, p. 211, n. 1. Munk (*Guide des égarés*, I, 287, note) maintains that these speculations on the relative superiority of angels or humans, are the result of Karaitic influence. The latter, in turn, took as their models the Muslim theologians, particularly the Mutazilites. See too Schreiner, *Der Kalām in der jüdischen Literatur* (Berlin: 1895), p. 14, n. 8, and cf. Munk, *Mélanges de philosophie juive et arabe* (Paris: 1859) Vol. II, p. 475, n. 2.
29. Thus, for instance, Guttman, *Die Religionsphilosophie des Saadia* (Göttingen: 1882), *op. cit.*, p. 160 end, n. 1.
30. Ravidowicz, No. 3, p. 193.
31. *Pesita d'Ray Kahana* 34:1 — (1895) p. 160 end, n. 1.
32. Ventura, p. 212. In n. 6 (*ib.*) he adds, "dans l'échelle des êtres, le corps humain forme l'échelon intermédiaire entre le ciel et la terre," and purports to find in Saadia's writings the essential elements of Leibniz's philosophy.
33. *Guide*, III: 13.
34. *EVD*, IV: 1.
35. *Ibid.* the data of the text of the *Sefer Yetzirah* is taken from the translation of Shlomo Pines, University of Chicago Press [Chicago: 1963].
36. *Commentary* to Gen. I: 1 (italics in translation are mine): "לא תאמר ויהיה אלהא המעלות או קצתם לזולתו מה שלא נמצאה. ויהיה חושב כי אשר נתן לו היתרון הוא זר וזולת האדם."

- הוא לא ידע את האלהים. For a list of additional medieval Jewish critics of Saadia's thesis of the superiority of man over angels, see Henry Malter, *Saadia Gaon: His Life and Works*, Jewish Publ. Soc. (Philadelphia: 1942), p. 212, n. 485. Much closer to our time, in the works of R. Hayyim of Volozhin, we find an attempt to synthesize both points of view (*Nefesh ha-Hayyim* 1:10). R. Hayyim, however, does not directly quote Saadia, Ibn Ezra, or Maimonides; instead his source is the Zohar (*Zohar Hadash, Midash ha-Nefesh*, s.v., נפש האדם) and Zohar III, 129 b). Nevertheless, it is fairly certain he had Saadia and the Ibn Ezra in mind.
37. Dr. Philip Birnbaum has suggested to me that Saadia's ideas were directed against the Karaites who gave preeminence to the angels. Thus, Yefet ben Ali writes of those who rank man higher, and adds, "We, however, say that the angels are higher in rank than Adam, for it is written, Thou hast made him lower than the angels" (cf. Birnbaum, *Yefet ben Ali on the Book of Hosea*, Introduction, p. xvi). See *supra*, n. 28.
38. Ravidowicz, No. 1, p. 54, n. 1.
39. *Sanhedrin* 37a, where the importance of the Sanhedrin is explained by its geographic position as the center of the world.
40. *Tanhuma Kedoshim* 39:2, where the world is conceived as consisting of concentric circles, the innermost being the most valuable. Thus, Palestine is the center of the world, Jerusalem the center of Palestine, etc.
41. J. T. Hæg. I: 1, n. 1.
42. See, for instance, Zohar I, 226a: *והוא אלהים ויהי עמו ויהי עמו ויהי עמו*. or II, 184b: *והוא אלהים ויהי עמו ויהי עמו ויהי עמו*. Especially see Zohar III, 161a and 162a. *והוא אלהים ויהי עמו ויהי עמו ויהי עמו*.
43. Guttman, p. 160, n. 1. See *infra*, n. 49.
44. A. E. Taylor, *Plato: The Man and His Work*, Meridian Books (New York: 1961), p. 450. Interestingly, Plato originally intended Timaeus to be a fifth-century Pythagorean, often expressing views of his own not necessarily shared by Plato (*op. cit.*, p. 446, n. 1). Yet Timaeus' astronomical ideas, while according with the Pythagorean assumption of the supremacy of the middle, are opposed to the idea of a central fire about which all heavenly bodies revolve.
45. *De Caelo* II, 293a-b.
46. Taylor, p. 447.
47. Arthur O. Lovejoy, *The Great Chain of Being*, Harper (New York: 1960), pp. 101-102.
48. It is interesting to note that Lurianic Kabbalah has incorporated both the centrifugal and centrifugal tendencies. The centrifugal element comes to the fore in its treatment of the *En-Sof*, whereby the *En-Sof* performed the act of self-limitation within Himself. The infinite divine Light recedes, as it were, from a central point, and in this vacuum, uniformly surrounded by the

En-sof, the creation takes place. Thus, the outermost spheres are most spiritual, the holiest, whereas the $\square^{\prime}\text{lyl}$ closer to the initial point of $\square^{\prime}\text{lyl}$ are denser, more material and corrupt. (See R. Hayyim Vital, $\square^{\prime}\text{lyl}$ py. end of 1: 1)

[illegible]

and its descension or avine Light, from the rim or periphery to the center, is called the Direct Light, *נור* *ḥayim*. The opposite tendency is represented in the Lurianic concept of the Returning Light, the *נור* *ḥayim*. In the *נור* *ḥayim*, issuing from the surrounding *En-Sof* through the various *קליפות* (descending in purity as it makes its way towards the center), the centrifugal scheme holds true, as above. Here *נור* *ḥayim* is outermost, and *נור* *ḥayim*, the lowest of the Ten Sefirot, is innermost. Then, however, the Light rebounds and, from the low point at the center, emanates a new series of Ten Sefirot outwards. The innermost of this *נור* *ḥayim*, the Returning Light, is *נור*, the highest of the Sefirot, and the last, the outermost and lowest, is *נור* *ḥayim*. While the *נור* *ḥayim* is held to be ineffective, in the sense that it is too holy to be grasped at all, unless it is first enveloped in the *נור* *ḥayim*, the latter is inferior

1:3). Thus, both tendencies are present, with the emphasis in favor of the former, comparing it as a reflection to the original light (see *ibid.*, centifugal pattern. This is to be expected in view of the fact that so many of Luria's terms originate in, and so many of his Kabbalistic concepts are germinally inspired by, the astronomy outlined by Maimonides in the *Yad*, Chapter III of *Hil. Yesodei ha-Torah*. See *infra*, n. 54.

49. Gutmann (p. 160, n. 1) mistakenly treats Plato and Aristotle as one, "Nach Plato und Aristoteles kann die Erde, resp. der Mensch schon darum nicht als Endzweck der Schöpfung angesehen werden, weil die oberen Sphären naturgemäss vorzüglicher und erhabener als die Erde sein müssen." In the very next sentence he cites Theophrastus' report that Plato changed his mind and regretted that in *Timaeus* he made the earth the center of the universe, since "da diese Stelle einem Besseren (dem Centralfeuer) gebühre" (italics mine), not realizing that, on the contrary, if Plato holds with Aristotle (as, of course, he does not) that the periphery is superior, he can no longer entertain the notion of the centrality of either earth or the central fire.

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ST. IPIPI, "the people of the land,"

ס'א וזלמ'ה (L^a) לא אלא עורא וזלמ'ה זי עזרז לא אלא וזלמ'ה
53. EVD, IV: 1, וזלמ'ה וזלמ'ה וזלמ'ה וזלמ'ה וזלמ'ה וזלמ'ה וזלמ'ה וזלמ'ה
52. Ibid.

58. *Ibid.*
59. *Ibid.*

implies that nothing exists solely for the sake of some other thing. Later in this same chapter, however, he modifies this idea. Thus, while the stars serve a dual purpose, that of providing illumination for man and their own existence per se, plants are in a different category: they obviously exist only for the benefit of animals, since the latter cannot exist without the former. This exception by Maimonides presents a problem. It contradicts his previous position, in the same Part III, Chapter 13, that every species has its own immanent purpose. This point is crucial, since if it be granted that any one part of the universe exists solely for any other part, then the floodgates are open for a comprehensive and exhaustive anthropocentrism of the kind expounded by Saadia.

The following solution is therefore suggested—though not without fear of contradiction. Maimonides—who throughout all his works accepts Aristotle's distinction between the sublunar and transhuman world, assigning to each a qualitatively different substance—must distinguish in his philosophy of purpose between the sublunar and transhuman spheres. Transhuman bodies may also serve man; they always, however, possess an inner *telos*, existing primarily for their own sakes. When it comes to the sublunar regions, we may find some species that are completely subordinate to some external *telos*. This would explain Maimonides' special irritation with Saadia's notion that even the angels and upper spheres were created for the sake of man. Furthermore, it would explain the choice of illustrations and the *a fortiori* argument in the

אגן, א קיט לטער, אין זיין לוגיקל רעפוטאציע פון אדא: דאס אלץ און נאך

However, while this proposal will explain away the apparent inconsistency of Maimonides with regard to the lack of an inner purpose of such species as plants and seems to accord with the language of the text it remains

namely, if God could have created animals without plants (and He must have been able to do so), then what purpose is there to plant life, since that for

it an immanent final cause of its own? Perhaps, finally, Maimonides does not regard this attack against Saadia as decisive (for which reason he follows it

in reserving immanent final purpose only for the transhuman world. Also, see *infra*, n. 62.

60. For a more elaborate discussion of the medieval cosmography, especially concerning the conceptions of the relative size of the earth and the rest of the

61. *Guide*, III: 14.

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important), true for both Eternists like Aristotle and Creationists like ourselves. The will of God, as any object's first form, represents the highest

is to reach its perfection, and its perfection is the Form which originally caused it, hence the First Cause is identical with the Final Purpose, i.e., God.

catechological end. Nationalism especially appones this idea to Iran, whence the complete ethnic based upon *imitatio Dei*. Actually, both Narboni and Shem Tob, who follows him and expounds his ideas on this chapter, fail to mention

ultimate teleological purpose in Part I, Chapter 69. There Maimonides argues that just as in the search for (mechanistic)

so with regard to purpose: every object has a purpose, and that purpose a further purpose, until we reach the end of the teleological line: the last purpose which is the execution of the will of God—or His wisdom both

end of everything" (*Guide*, I: 69).

cf. *EVD*, IV: 1.

CHAPTER V

THE RELIGIOUS IMPLICATIONS OF EXTRATERRESTRIAL LIFE

A JEWISH EXOTHEOLOGY

THE EXISTENCE of rational, sentient beings on a planet other than earth is no longer a fantastic, remote possibility conjectured by imaginative and unrealistic minds. It is declared not a possibility, but a probability, by an ever-growing chorus of distinguished astronomers and eminent scientists in all fields. Already there has been established a new science—"exobiology," the study of forms of extraterrestrial life—although neither specimens of such living matter nor definite proof of their existence is yet available. The speculation of these men of science is that in many corners of the universe life has developed to a degree far higher than here on earth, so that, in the words of Walter Sullivan at the beginning of his splendid volume on the subject, *We Are Not Alone*,¹ "not only are we not central in the scheme of things, but we may be inferior, physically, mentally, and spiritually, to more highly evolved beings elsewhere."

Almost all descriptions of the current attempts to discover such extraterrestrial life are accompanied by exhortations about the profound implications for humanity's view of the universe and the need for theologians and philosophers to reexamine their doctrines. When the existence of life elsewhere is established, and especially if some contact is made with intelligent beings elsewhere, we will be confronted by as much of a challenge to our established way of thought as when the

Copernican revolution displaced the earth from the center of the universe and set in motion a religious and philosophical upheaval that has but recently run its course. One of the most persistent advocates of a radically new philosophy is the famous Harvard astronomer, Harlow Shapley, who in 1918 located the center of our galaxy (the Milky Way) some 50,000 light years away. Shapley finds in the probability of intelligent extraterrestrial life "the intimations of man's inconsequentiality." Vannevar Bush, one of the world's most distinguished men of science, has already detected one of the resulting tendencies—a "new materialism" espoused especially by "young men."²

That this challenge must be met forthrightly and honestly is quite evident. It is unnecessary to belabor the parochial and provincial viewpoint that would shrink from pursuing it. Some religious thinkers have already begun to grapple with the problem. Much of what has been written by Christian theologians so far has been predictable and unconvincing. Apparently there has not yet been any serious Jewish thinking on the subject. This essay is a preliminary attempt at what might be called a Jewish "exotheology," a religious conception of a universe in which man is not the only rational inhabitant.

THE SCIENTIFIC BACKGROUND

That the universe contains an enormous number of heavenly bodies was already known in ancient times. In the Bible, the expression for a very large number is "like the sand on the seashore" or "like the stars of the heavens."³ The vastness of astronomical distances, although not measured in terms of light-years, was also known before modern times. Thus, Maimonides (*Guide* 3:14) estimates the distance from the center of earth to Saturn as 125,000,000 miles. Nevertheless, the universe was considered closed, limited, and well-defined with the earth at dead center. In the sixteenth and seventeenth centuries, with the Renaissance, came the discoveries of Copernicus, Galileo, Brahe, and Kepler, and a century later the laws of gravitation were formulated by Sir Isaac Newton. The sun, not the earth, was the center of a world that had begun to open up. Then,

in 1918, as the result of probing with powerful photographic telescopes, Shapley's findings displaced the sun as the center of the universe. The world as such is eccentric, or acentric (without a center); the center of our particular galaxy lies an enormous distance away from our solar system.

Now the estimated number of suns or stars in our galaxy, the Milky Way, is over 100 billion, many of them bigger but most smaller than our sun. Shapley estimates that there are about 100 billion galaxies in the universe containing, all told, more than 10^{20} (a one followed by twenty zeros) stars.⁴ Of these, approximately 20 percent are identical to our star, the sun, in size, luminosity, and chemistry. The Harvard spectrum catalogues note some 40,000 such stars in the nearby areas of the universe.

The question is, how many of these stars contain planets in orbits about them, as does our sun? No one has yet seen or photographed a planet of a star other than our own. However, the fact that our sun has planets means that it is likely that other stars do too. According to astronomer Frank D. Drake, the most optimistic reckoning would lead us to expect that a quarter of all stars not only have planets, but bear civilizations advanced enough to communicate with us. Shapley is much more conservative in his estimate. He argues that even if only one star in a hundred is a single star (the others are thought to be incapable of supporting planets), that of them one in a hundred has planets, of which one in a hundred are earthlike, of which one in a hundred are of the right temperature, and of which one in a hundred have a chemistry similar to that on earth, we still remain with about ten billion planets suitable for organic life. Less conservatively, he prefers to multiply that figure by a million. Stephen H. Dole, of the Rand Corporation,⁵ estimates the number of life-bearing planets in our galaxy at 640 million. Harvard astronomer Carl Sagan believes there are one billion planets in our galaxy that have developed advanced civilizations. Otto Struve, one of the greatest names in contemporary astronomy, in 1960 estimated that there are about 50 billion solar systems in the

Milky Way, a good many of these billions supporting intelligent forms of life.

Two years later, however, Struve was less optimistic, insisting that we must distinguish between the probability of a star possessing planets and the probability that such planets contain intelligent living organisms. Only a few dozen such stars are closer than twenty light years to us. "But the probability that any of them have intelligent life at the present time is vanishingly small. The probability that even if intelligent life now exists outside the solar system, but closer to us than twenty light years away, any artificial radio signals are reaching us now is even smaller. But it is not zero . . . the attempt to record such signals must be made."⁶ A. G. W. Cameron, of the National Aeronautics and Space Administration, is similarly inclined to a dimmer view of the uniformity of solar systems.⁷ The effect of his calculations is to reduce the number of life-bearing planets in the Milky Way from the billions to the millions, most of them quite distant.

The question of the proximity and number of solar systems is thus still not answered to our satisfaction. Indirect methods, such as analyses of stellar motion, have been proposed for such detection. In the not-too-distant future, orbiting telescopes entirely above the atmosphere, or even moon-based instruments, may be able to photograph planets in nearby solar systems—if such planets do indeed exist!

Despite the absence of immediately available evidence for such planets and for extraterrestrial intelligent life, most astronomers assume their existence in proportions that sound nothing less than fantastic. Shapley proposes a novel theory concerning the existence of life on bodies intermediate in size between that of a star and that of a planet, not having any sun about which to orbit. Myriads of these dark bodies abound in the universe, he maintains, supporting life by lightning and internal radiation. And Cambridge University's cosmologist Fred Hoyle speculates that an interchange of messages between planets of different solar systems is going on, on a vast scale, all the time, and that we are naively unaware of it. "My guess is that there might be a million or more subscribers to the

galactic directory. Our problem is to get our name into that directory."⁸

The Evolutionary Assumption

All of the above theorizing about extraterrestrial life is based upon one assumption: the natural evolution of life from inert organic chemicals. One hundred years after the seemingly conclusive victory of Louis Pasteur over Felix A. Pouchet, and the abandonment of the theory of the spontaneous generation of life, most scientists maintain that life was indeed generated spontaneously, and that, as Charles Darwin wrote, "The principle of life . . . [is] a part, or consequence, of some general law."⁹

Current biochemical research indicates that, given the right conditions, self-duplicating macromolecules will naturally evolve out of previously inert material. Two distinguished biologists, Aaron Novick and Joshua Lederberg, believe that "there is a good, rather than an unlikely, chance for life to develop on a planet like earth," for "spontaneous chemical processes would lead to the formation of many complex molecules." Electric discharges on gas mixtures similar in composition to what is presumed to have been the primitive atmosphere of earth give rise to amino acids, the basic stuff of all life; and further natural synthesis gives rise to nucleic acids, which are self-replicating structures. Such complex compounds, in the absence of any voracious organisms, would continue to breed other molecules identical with themselves out of this "soup," especially in the primitive oceans.¹⁰ Indeed, in 1957 Stanley Miller, working under the esteemed chemist Harold C. Urey, mixed water vapor with methane (a compound of carbon and hydrogen), hydrogen, and ammonia (a compound of nitrogen and hydrogen), and subjected the mixture to a powerful high frequency spark. After a week, he obtained several amino acids and other important organic (carbon-containing) compounds. Miller suggested, and the idea seems to have gained acceptance, that a hydrogen rather than oxygen-dominated atmosphere is the key to the natural synthesis of the organic compounds.¹¹

If the assumption about the primitive atmosphere of earth is correct, then one is led to conclude that the development of life is quite natural and not at all unique to earth. That this ideally suited atmosphere existed, that just the right molecules were formed, that they, by chance, organized into a magnificent cooperative enterprise to produce self-duplicating macromolecules, that these joined together instead of competing with each other, and that they evolved the mechanics of heredity in order to possess the genetic systems to perpetuate—all this staggers the imagination and taxes credibility. It has been compared to the oft-cited example of the monkey randomly pecking at a typewriter. Given enough time, measured in the billions of years, he will eventually type all possible arrangements, and so produce—*Hamlet!* The key here is—"given enough time." Geologists, calculating from the extent of radioactive decay in ancient rock formations, estimate the age of the earth, in its present form, at 4.5 billion years, and the emergence of life at 2.5 billion years. In other words, the incredible became not only credible but real in the space of two billion years.

Of course, man has not yet succeeded in synthesizing living material (defined as a self-replicating molecule). But, as Vannevar Bush avers, "there is little doubt that he soon will. Some very simple short-chain nucleic acid, synthesized from inert matter and placed in a chemical soup, will suddenly assemble accurate images of itself and the job will be done."

The assumption is that if man can do it in the laboratory, Nature has done it by chance. Given the immensely long time of two billion years, the overwhelming odds against such random occurrence are severely diminished and natural biogenesis, or spontaneous generation, may have taken place.

There are other theories advanced about the origin of life which ought to be mentioned in passing. One of these is the "pan-spermia hypothesis" of Svante Arrhenius, according to which life originated on earth through the migration of spores to earth from some other planet. But this only defers the question of the origin of life to some other site. Another, equally fantastic notion advanced by J. B. S. Haldane in 1954, is based on the "steady-state" theory of the universe.

Since the world, according to this theory, had no beginning, then life may be co-eternal with the universe, i.e., life always existed and also had no beginning.¹² There are a number of other such theories, all of them (with the exception of the one just mentioned) assuming that life developed naturally from pre-living material.

The Historical Antecedents

Current speculation on extraterrestrial intelligent life is not exactly new. Both the astronomical ideas necessary for such life, and the conjecture itself about rational and sentient beings elsewhere, were known to antiquity. About 2500 years ago Anaximander proposed the idea of an infinite number of worlds, some in the process of being born and some dying. Two hundred years later another Greek, Democritus, inventor of the Theory of Atoms, elaborated the same idea in the context of his theory of the infinity of both space and time. A generation after Aristotle, Aristarchus already ventured a heliocentric conception of the universe.

In the sixteenth and seventeenth centuries, with the development of the new cosmography and the opening up of the limited, walled-in universe, speculation was rife about the existence of extraterrestrial races of intelligent beings superior to man. Kepler, Galileo, and Descartes entertained such notions and discussed them quite openly. Giordano Bruno, in 1586, concluded that there must be an infinite number of morally imperfect beings, like man, on an infinite number of worlds. Lovejoy, the great historian of ideas, has shown that this interest was not the result of the new scientific conceptions initiated by Copernicus and Galileo, but rather of the philosophic development of certain ideas implicit in Plato.¹³

Thus, some three to four centuries before technology propelled us beyond the gravitational pull of the earth, scholars were already discussing the possibilities of races of intelligent beings on some planet in this or some other solar system.

A new outburst of such speculation took place in the middle of the last century. In his *Plurality of Worlds*, William Whewell expressed his opposition to the idea that other planets

in our own solar system or in remote galaxies are inhabited by anything more than a few boneless, gelatinous creatures. Our planet is unique, and only a "supernatural interposition" has introduced man, who is the universe's superior being. In the controversy that ensued, Sir David Brewster countered with the argument, in his *More Worlds Than One*, that "the function of Earth, *to support inhabitants*, must be the function of all other planets." William Williams, in his *The Universe No Desert, the Earth No Monopoly*, maintained that if man is to be considered a noble creature, then he must be found in endless duplication throughout the worlds.¹⁴ However, never before has this speculation so gripped the entire scientific community and, indeed, all of mankind. Contemporary discussions of this matter are conducted not in idle terms or the language of imaginative science fiction, but in highly sophisticated scientific jargon, published in the most respected journals, and advanced by some of the most distinguished men of science of our times.

And What of Man?

The consequences of the possibility—according to so many scientists, probability—of extraterrestrial intelligent life are pressed upon us by most of those who have written about the subject. Astrophysicist Cameron, in the introduction to his anthology mentioned earlier, refers to the problem as "currently the greatest question in scientific philosophy." Otto Struve, reviewing the theories and probabilities, including "the occurrence of water not only on the earth but on Mars and Venus" (this was before the Mariner 4 flight which found no water on Mars, and confirmed for Venus by the Russian Venera 7 flight in December 1970), concludes that we must review our thinking about mankind, and face the philosophical consequences of the statement: "We are not alone in the Universe."

Most other scientists, departing from their chosen disciplines and donning the robes of the philosopher, are far less humble. Some, as has been mentioned, have enthusiastically adopted what Bush has called the "new materialism." Harlow Shapley, eminent in his own domain, has gone further than most others. Suffering from what has been called "the fallacy of

transferred authority," Shapley has declared that "we are peripheral," has found "intimations of man's inconsequentiality," and has proceeded to recommend a philosophy which will attempt to guide man in a universe in which he is, essentially, a nobody. Drinking deeply from the heady wines of amazing hypotheses and fascinating theories, most of them not proven, a number of scientists have become intoxicated with the sense of their own unimportance. Never before have so many been so enthusiastic about being so trivial.

For the purpose of keeping a proper perspective on what is heralded as the newness of the philosophic revisions and religious reconsiderations necessitated by these new conceptions, it should be recalled that even before the Space Age, and independent of the speculations about extraterrestrial intelligent beings, the modern world has largely dispensed with man's significance. Jacques Barzun has traced to Frances Bacon the root idea which colors all modern thought and feeling, both scientific and unscientific: the idea of the irrelevance of man. Purpose, according to Bacon, is a human invention and does not correspond to any aspect of the nature of the universe. Objectivity is obtained in science by recognizing that phenomena are without purpose.¹⁵ Modern thought, from scientism to existentialism, has banished teleology and reduced man to a purposeless and insignificant blob of protoplasm. But whether all that is modern is necessarily true is, of course, an entirely different question.

It Is Earlier Than They Think

The enthusiasm of space scientists for their craft is of course admirable and even enviable. That is as it should be. However, this very excitement should by and of itself recommend caution both to the specialists and to the general public. A Nobel prize is no guarantee that the awardee is henceforth free from human error. More than once in the past have the wisest men of a generation been caught up in ardor and passion for certain ideas which seemed most plausible and which later, upon further reflection and examination, turned out to be follies. In our present situation, similarly, we must

beware of over-familiarity with the fantastic and an over-zealous stretching of the limits of possibility. Exuberance and eagerness and the sense of great expectations can overwhelm the sober skepticism of even the most disciplined scholars and diminish the prudent judgment necessary for accuracy and truth. That such lapses of judgment, the result of too much zeal and self-assurance, have occurred in the realm under discussion, has been amply illustrated by two recent events.

On April 12, 1965, Soviet radio astronomers announced that radio emissions originating from a source listed as CTA-102 indicated the discovery of a "supercivilization," the intelligent beings of which were sending these messages to its neighbors in the universe. Knowledgeable American reaction was that, if this report were correct, "it could prove to be the most revolutionary event in human history."¹⁶ One day later, as is well known, the Russians withdrew their statement and, instead, declared only that the 100-day cycles of radio pulses on a frequency that had previously been suggested as ideal for interstellar communications were worthy of further observation.

Now these Soviet scientists were not children. They included Iosif S. Shklovsky, "one of the most brilliant theoretical radio astronomers alive" (according to Walter Sullivan) and author of a book on the subject published in 1962 by the Soviet Academy of Sciences.

Another disappointment for space enthusiasts came some months later. Almost all literature on the subject, immediately prior to the Mariner 4 close-range photos of Mars on July 14, confidently predicted the discovery of sufficient amounts of water on that planet to sustain life and, consequently, the actual existence of some forms of living organisms. The photos, however, revealed no signs of water action; and scientists have ruled out the possibility of the complicated processes of life occurring in any but a water medium. The possibility remains, of course, that the space-ship pass-by was coincidentally limited to a desert region, or that primitive forms of life exist below the Martian surface. Such conjectures will have to await an actual landing on the red planet; meanwhile it

is most likely that our cosmic neighbor is a dead and desolate body. What had been an almost universally agreed probability has turned out to be highly unlikely. The "scientifically startling" discovery, according to the scientist who acted as the spokesman at the White House conference announcing the photographs, "further enhances the uniqueness of the earth within the solar system."¹⁷

Other sobering notes have been heard, tempering somewhat the chorus of optimism about extraterrestrial intelligent life and the possibility of establishing communication with such life. Thus at the seventy-fifth anniversary convocation of the California Institute of Technology in October 1966, one of the world's leading astrophysicists, Dr. Jesse L. Greenstein, termed dreams of ultimate space travel as "pure fantasy" and expressed skepticism about the chances of ever communicating with life in space. On the reasonable assumption that the nearest civilization was 10,000 light years away, he calculated that we would need an aerial as large as the earth itself to catch its signals. Nevertheless, he felt that establishing interstellar communications could be of such momentous impact that, slim as the chances for achieving it are, it was worth budgeting a greater part of our natural wealth to achieve such communications.¹⁸ Less than a year and a half later, the same scientist, addressing a convention of science writers at the same institution, was far more pessimistic. He suggested the possibility that our planet is a distinct abnormality in the universe. He even expressed doubt whether solar systems exist elsewhere. His thesis is based on the rarity of solid matter in the universe, more than 99 percent of which is gaseous. Earth and the solar system are thus abnormal in that they are not in the mainstream of chemical and nuclear processes in the stars.¹⁹ For all our speculation, man may be quite alone in the universe.

The nature of the subject lends itself to extravagances; indeed, the facts may prove to be amazing when compared to our customary conceptions. It is an inherent hazard of the subject that it becomes difficult to distinguish science from science fiction.²⁰ "They are exhilarating," Struve warns, "but at the same time dangerous." The general public, meanwhile, is asked

to leap obediently from fantasy to fantasy, and little sermons are preached to the skeptics reminding them that Columbus' contemporaries did not believe him either. Exercising the same benefit of clergy which the scientists today enjoy, they admonish philosophers and theologians to discard, revise, and adjust their own thinking to fit into the patterns formed by scientists from as yet unproven hypotheses. There is a serious misconception, Dr. Bush writes in the *Fortune* article mentioned above, "that scientists can establish a complete set of facts and relations about the universe, all neatly proved, and that on this firm basis men can securely establish their personal philosophy, their personal religion, free from doubt or error." He then cautions against the exuberance that properly accompanies the great achievements of science, but that makes rash people come to conclusions, usually atheistic and materialistic, which they believe to be the inevitable and logical results of following the dictates of science. "... There is much concern over those who follow science blindly, or relapse into a hopeless pessimism. It is earlier than they think."

Not all of the theoretical substructure necessary for asserting with certainty the existence of extraterrestrial intelligent life has been proven conclusively. Much of it may well be proven in the near future—possibly between the time this is written and the time it is published—but, by the same token, much of it may very well remain hypothetical, and some of it shown to be wrong. Thus, for instance, the question of planets in other solar systems depends largely upon the manner in which the planets around the sun were formed. There are essentially two rival theories to explain this origin, both from the middle of the eighteenth century. George-Louis Leclerc proposed the collision hypothesis: a very large comet struck the sun and knocked off the chunks that became the planets. A decade later, Immanuel Kant envisaged the primordial universe consisting of gases that condensed into blobs of higher density; each mighty blob became a solar system, spinning about till the inner core became a star and the outer cores formed planets. This, of course, is stating the theories very simply and crudely; they have undergone many sophisticated modifications. Now

the difference between the collision and nebular theories is this, that, according to the former, solar systems are very rare, for a hit or even near miss of the sun by a large star is a freak accident in the vastness of space; whereas, according to the nebular theory, solar systems are common throughout the universe. Hence, since extraterrestrial life requires the existence of planets, such life can be postulated only if the nebular rather than the collision theory is accepted. Cameron, in his anthology, reviews the situation and concludes that most contemporary theories envisage a nebular rather than a collision origin—most, but not all. The question has not been finally settled. At a conference in January, 1962, of the Institute for Space Studies of the National Aeronautics and Space Administration, objections were raised to each hypothesis by leading protagonists of the several different views. There may, then, be a majority view and even a developing consensus, but there is not yet an established fact about a fundamental prerequisite for extraterrestrial life.

The Biological Premise

One may question further the biological presuppositions upon which is built the whole idea of life elsewhere in the universe. The naturalistic view has living matter evolving spontaneously from large, inert molecules. The first self-duplicating molecule begins its work of reproduction, its food supply is the almost limitless "soup" of the primitive oceans and, in the absence of voracious organisms, it grows rapidly until chance mutations give rise to new variations, and so on up the scale of evolution. There are several assumptions that underlie this picture of natural biogenesis. The leap from the simplest forms of self-replicating macromolecules to single cells and from single cells to more advanced organisms supposedly took millions of years. The existence and the flourishing of this "chemical delicacy" called life is assumed to have taken place because of an adequate food supply and the absence of organisms to prey on it. But is this all that must be taken into account? What of the normal decomposition process that runs counter to life's synthetic necessities? Does living matter, given

sufficient food and guarded against trauma, live forever—for millions of years?

Biological molecules are notoriously sensitive. Even the simplest reactions involving them will fail if the conditions are not just right. Experience with living cells shows that even a slight change in ionic concentration brings everything to a halt and leads to disintegration. "It is commonly argued," writes the distinguished biologist, Professor H. Sandon, "that every possible accident was bound to happen sooner or later." Thus, no matter how improbable an event is, we must consider it in the perspective of geological time. But, argues Sandon, conditions were changing irreversibly during this time, and a chance once missed would not be likely to recur. Thus, the original supply of free organic molecules that the earliest living aggregates needed to assimilate from their environment would soon have been exhausted. Within that relatively short time, these organisms had to make themselves independent of such supplies by acquiring the chemical mechanism for autotrophic life, i.e., life in which everything is built up from inorganic sources, the requisite energy being obtained from sunlight or chemical reactions. "Geological time may be long, but is short in comparison with the improbability (in the statistical sense) of the sequence of accidents through which cells came into being."²¹

In addition, the entire process of spontaneous generation so envisaged is based solidly upon evolutionary theory. It is true that the overwhelming majority of scientists accept it. Yet—may the guardian angel of Science forgive my heresy!—not all questions have been answered. Not all the facts fit neatly into the evolutionary scheme. Some scientists do tend to accept creationism and catastrophism. Such a literature, skeptical of the official dogma, is spread about here and there. True, only a specialist may evaluate it properly. Yet it deserves to be mentioned and thought of in considering the chain of arguments necessary to conclude that extraterrestrial life does indeed exist.

Moreover, there are hard and serious questions that are being asked about crucial points in the entire line of development

postulated between the rise of elementary self-duplicating molecules and the emergence of intelligence. At the bottom of the scale, the origins of life are being elucidated chemically, i.e., by synthesizing the nucleic acids from simpler substances, and then assuming that this is how the cell originated and works. Yet a number of distinguished biologists insist that we cannot understand the cell and how it evolved simply in terms of its constituents. Harold F. Blum of Princeton (quoted by Walter Sullivan) put it this way: "Clearly we should not try to describe an automobile by grinding up its various parts and subjecting them to chemical analysis, and we should not expect to learn all about the living machine by following, exclusively, a similar attack." Blum and George Gaylord Simpson, a Harvard paleontologist, are the major dissenters from the belief that life will emerge on a planet like that of the primitive earth. The development from single atoms to long-chain molecules is probable, but the next step, from macromolecules to a living cell, is so vast as to be extremely rare. Chemical combinations are comparatively simple and uncomplicated, and hence predictable; but as one comes to an object as immensely complex in its machinery and functioning as the organized cell, the outcome is much less deterministic and preordained. There are many alternate paths that development may take, and life is but one of them. (Here the religious person might ask: Is this, then, the way the Creator works within the natural laws He set down for the world He created—by opting amongst alternatives which He built into Nature itself?) The two scientists agree that even if there is life somewhere in the universe, it is unlikely that we can learn anything about it, even the bare fact of its existence.

At the top of the scale, Blum and Simpson doubt that intelligence is an inevitable result of evolution. The development of intelligence by chance required a long succession of extremely rare evolutionary "accidents" that were incredibly intricate and improbable. Even, therefore, if such a long chain of accidents has been duplicated elsewhere in this galaxy, these intelligent beings are extremely distant and unreachable. Simp-

son has especially protested, on these grounds, the search for life beyond the earth.

In addition, Professor Loren Eiseley has pointed to an aspect of Darwin's discoveries which has never penetrated the consciousness of the general public. Once undirected variation and natural selection are introduced as the mechanism controlling the development of living organisms, the evolution of every world in space becomes a series of unique historical events. "The precise accidental duplication of a complex form of life is extremely unlikely to occur in even the same environment, let alone in the different background and atmosphere of a far-off world." Darwinism destroyed the concept of geological prophecy. Hence, while it is possible that life exists elsewhere, it is highly unlikely that it exists in a form approximating man. Eiseley writes:

Every creature alive is the product of a unique history. The statistical probability of its precise reduplication on another planet is so small as to be meaningless. Life, even cellular life, may exist out yonder in the dark. But high or low in nature, it will not wear the shape of man. That shape is the evolutionary product of a strange, long wandering through the attics of the forest roof, and so great are the chances of failure, that nothing precisely and identically human is likely ever to come that way again . . .

Lights come and go in the night sky. Men, troubled at last by the things they build, may toss in their sleep and dream bad dreams, or lie awake while the meteors whisper greenly overhead. But nowhere in all space or on a thousand worlds will there be men to share our loneliness. There may be wisdom; there may be power; somewhere across space great instruments, handled by strange, manipulative organs, may stare vainly at our floating cloud wrack, their owners yearning as we yearn. Nevertheless, in the nature of life and in the principles of evolution we have had our answer. Of men elsewhere, and beyond, there will be none forever.²²

It is instructive to quote Prof. Sandon, in the article mentioned above, as to the high improbability involved:

To give point to our argument, let us suppose that in the progress from primitive organic soup to modern industrialized man there were 100 critical steps, and that at each of these steps there were two possibilities. The odds against the final result would be 2^{100} to 1 (or a million million million million million to one!). That of course is a gross oversimplification. In reality there must have been far more than one major step every 40 million years (which in the total 4000 million years or so of evolution is what this figure means) and countless minor hazards and adjustments in-between. And at each step there must have been many alternatives, not just two. The real odds against a repetition of the chain of events, even on a world identical with our own, are incalculably great. But we can go further, for interplanetary communication requires that beings on other planets shall have evolved to the same stage of intellectual and technological development as ourselves just at the same time. An error of synchronization of as little as one year in every 100 million would result in these other beings either not having yet reached the stage of being able to communicate or else having passed the state of trying. We can add a good many more noughts to our estimate of improbability.

It is a strange thing that, whereas one of the greatest achievements of ancient astronomy was the overthrow of the idea of an anthropocentric universe, the spectacular achievements of modern astronomy have been made the occasion for bringing it back in the form of a belief that all biological evolution, wherever it takes place, must result in beings like ourselves.

Yet with all these dissents, speculation is rife, rampant, and at times utterly wild. We need note but one example: one writer in *Science* (April 13, 1962) has suggested that long

molecules that are now being extracted from certain meteorites might have been placed there by an advanced civilization in the remote reaches of space and hurled at us in great numbers. These long molecules may contain a message in coded information. Hence, he suggests that we intercept comets in flight to see if they contain any messages for us! Apparently, the idea that improbable events become probable if given enough time means that all rationality should be banished because, quite literally, everything is not only possible but probable.

The Veil Over Genesis

The above views have been presented not because of any feeling that a hoax is being played on the public or that the scientific community is in the grips of a great delusion. Rather, they are mentioned in order to show that, contrary to the impression conveyed to the layman, there is no certainty or definiteness in the ideas being proposed by scientists concerning extraterrestrial intelligent life. What is a guess, even an educated guess, cannot and should not be put forth as the kind of "fact" which demands immediate philosophic readjustment and theological revision. Until such time as proof, in its fullest scientific sense, is forthcoming, it is premature to rush headlong into drawing profound and far-reaching philosophic conclusions.

Nevertheless, these exceptions having been noted, the fact remains that most of the highly respected scientists of our day, eminent in their fields, do believe that intelligent life exists elsewhere in the universe, and some of them believe that such life is close enough to us for communication. The credentials of these scientists are impeccable and the weight of evidence sufficiently convincing for us to take their conjectures seriously, despite any reservations we may have.

No religious position is loyally served by refusing to consider annoying theories which may well turn out to be facts. Torah is "a Torah of truth," and to hide from the facts is to distort that truth into a myth. Of course, it must be repeated that the theories here under discussion have not (yet) been established as true. But they may be; and Judaism will then

have to confront them as it has confronted what men have considered the truth throughout the generations.

Maimonides, over eight centuries ago, was faced with the widely accepted Aristotelian theory of the eternity of the universe, which ostensibly contradicted the Biblical conception of creation in time. Maimonides demonstrated that Aristotle had not conclusively proved the eternity of matter, and that since eternity and creation were, philosophically, equally acceptable alternatives, he preferred to accept creation since this theory was the one apparently taught in Genesis. Nevertheless, Maimonides averred, were the Aristotelian theory convincingly proven, he would have accepted it and reinterpreted the verses in Genesis to accommodate the theory of the eternity of matter.

It is this kind of position which honest men, particularly honest believers in God and Torah, must adopt at all times, and especially in our times. Conventional dogmas, even if endowed with the authority of an Aristotle—ancient or modern—must be tested vigorously. If they are found wanting, we need not bother with them. But if they are found to be substantially correct, we may not overlook them. We must then use newly discovered truths the better to understand our Torah—the “Torah of truth.”

The integrity of Maimonides is in no wise diminished by his readiness, if persuaded of the correctness of the theory of eternity, to reinterpret Genesis so as to avoid a contradiction to this theory. Ostensibly, this is a case of playing fast and loose with Biblical verses, of taking the Bible as an infinitely plastic text which can be “interpreted” to yield any fore-ordained results. But this is clearly not so. No one acquainted with this great sage’s halakhic and philosophic writings can possibly accuse him of casuistry or baseless homiletics.

Maimonides was referring exclusively to the first part of Genesis. The freedom of interpretation is far more limited in the legal sections of the Bible, and in those parts dealing with actual history. What I am suggesting is that this first part of Genesis has always been accepted, in the Jewish tradition, as containing hidden doctrines, i.e., the text was never meant to

be taken as a literal history. It was, as it were, meant to be interpreted and reinterpreted. Thus it is that this part of the Bible, known in the Jewish tradition as *Maaseh Bereshit*, was always considered as esoteric, containing mysteries that lie buried deep within the text and that can be revealed only to the initiated. Hence, if the literal reading of this portion of the Torah contradicts what reason tells us to be the truth, it means that we have not properly understood the divine teachings and must return to the sacred text and probe deeper into it in order to discover what is, after all, a single and unified truth.

A modern Jewish sage, the late Rabbi A. I. Kook, first Chief Rabbi of the Holy Land, takes this position explicitly. "The Torah," he writes in an important letter, "has certainly veiled the story of creation (*Maaseh Bereshit*) and spoken in hints and parables. For everyone knows that *Maaseh Bereshit* is part of the 'secrets of the Torah,' and if all these words [in Genesis] are meant to be taken literally, what 'secrets' are there? . . . What is most important is the knowledge that emerges from all this: that one must know God and live a truly moral life. . . . But we do not have to accept theories as certainties, no matter how widely accepted they are."²³

This position, espoused both by Maimonides and Rav Kook, is worthy of acceptance and emulation. It is the kind of attitude that religious Jews, who wish to live and participate fully in the modern world, can adopt with dignity. It includes both the acceptance of all modern knowledge, with a healthy skepticism of popularly acknowledged "truth," and an abiding faith in Torah, together with an inward-directed skepticism which does not allow us to seal the teachings of Torah with a finality of our own making, but which keeps us humbly aware of the majestic mysteries that unfold from the sparse words of God before us.

It is in this sense that an evaluation is here undertaken of the religious implications, for Jews, of extraterrestrial intelligent life. Our approach will be more philosophical than exegetical; yet the theme of *Maaseh Bereshit* remains relevant.

The grandeur of Judaism's insights has not yet been fully revealed, neither from the text of Genesis nor in the context of Jewish religious thought. God is greater than our finite thoughts about Him; and the mine of Judaism contains richer treasures than the ability of even the wisest of sages to excavate fully within the confines of one lifetime or even one historical epoch.

In this spirit we approach our problem: A Jewish exotheology, an authentic Jewish view of God and man in a universe in which man is not the only intelligent resident, and perhaps inferior to many other races. That such is the case, is yet uncertain. In Dr. Bush's words, "it is earlier than they think." But what indeed if these speculations should prove to be factual?

THE CHALLENGES

The major challenges with which Judaism is confronted by these new conceptions may be divided into three parts: the question of the uniqueness of man, the uniqueness of the Creator, and the relation between God and man.

The Uniqueness of Man

The first and most immediate challenge concerns the uniqueness of man in the universe. Man was created, according to the Torah, in "the image of God." How does this Godlike creature relate to other, possibly superior, creatures elsewhere in the cosmos?

Man is deemed valuable by Judaism. Without the premise of man's inherent worthiness, all of religion is meaningless. God revealed Himself to man because he was deserving of such knowledge. But if man is not the only inhabitant of the world, and possibly but an inferior one, does he retain his intrinsic worth? And is he indeed significant enough to have had God revealed to him?

Jewish thinkers have often spoken of man as the purpose of creation. The Midrash, and the mystics especially, even into the nineteenth and twentieth centuries, have spoken of man as a microcosm and have granted him far-reaching spiritual

powers that allow him to influence the destiny of the cosmos. Can this hold true for a race of beings that inhabits a single planet of an off-center medium-sized star in one of billions of galaxies? Can man's life have any transcendent meaning in a world in which we have received, as Shapley put it, "intimations of man's inconsequentiality" which we prefer to ignore because "we cherish our stuffiness?"

The problem is not so much theological—for God is in no way diminished by our learning that His creation far exceeds what had previously been imagined—but anthropological, in the European sense of the study of man and his place in the world. Not our conceptions of God, but our conceptions of man, and, if we may be permitted to say so, our conceptions of God's conceptions of man, are at stake.

The Early Sources

Despite the easy assumption that the Bible supports the idea of the primacy of man, it is not at all that certain. As a matter of fact, we find no sure judgments, only inclinations, and these can be made to support both opposing theses, that of man's centrality and that of his non-uniqueness.

It is true that the doctrine of man's creation in the divine Image bestows transcendent value upon man, lifting him out of the order of the purely natural; but this is by no means necessarily an exclusivist principle. It is quite possible that *homo sapiens* on this planet and other equivalent races elsewhere represent the interpenetration of the natural and the supernatural. Whether the idea of "the divine Image" is interpreted rationalistically as intelligence, or ethically as freedom of the will, or mystically as possessing creative powers, there is nothing in it (that is, in the Biblical doctrine per se) that insists upon man's singularity. The concept of *imago Dei* does not impose a singular and exclusive quality upon all who possess it. All human beings are created in this divine Image, despite the fact that people are born unequal, some with superior endowments and some with a tragic poverty of both talent and opportunity. In the same manner, races of intelligent beings that differ from each other as radically as an idiot from a

great genius may both be impressed by the divine Image, by the summons to transcend the merely natural. If the Image of the Absolutely One God can be impressed upon the manifold individuals within the human race, it can be similarly bestowed upon a multitude of races.

Indirect intimations supporting the thesis of man's superiority can be balanced with indirect references supporting the antithesis. Thus, man's creation at the end of the six days, at the apex of an ascending order of creatures, implies man as the end not only chronologically but also teleologically—the purpose for which all the rest of creation was called into existence. But opposing this is God's majestic address to Job out of the whirlwind, which leads us from a consideration of the mystery and immensity of creation to an appreciation of man's triviality and his moral and physical and intellectual inadequacy.

Perhaps the best illustration of the difficulty of finding a single view in Torah is Psalms 8:4-9, where both the thesis and antithesis are presented together:

When I behold Thy heavens, the work of Thy fingers,
The moon and the stars which Thou hast established;
What is man, that Thou art mindful of him?
And the son of man, that Thou thinkest of him?
Yet Thou hast made him but little lower than the angels,
And hast made him to have dominion over the works of
Thy hands;
Thou hast put all things under his feet. . .

Here a consideration of celestial grandeur points to man's insignificance; yet man's central worth is salvaged, and proof is adduced from his superiority over other terrestrial creatures. What we are given here is not a hesitation, an uncertainty, but a marvelous paradox. Man is both important and insignificant, central and peripheral, worthy and trivial. In the context of the vast cosmos, man shrinks almost into nothingness; in the framework of his own habitation he is supreme, worthy, terribly important. Both are true. The young man who leaves

his home and family for the first time to make his lonely way in the wide world, experiences the same ambivalence about himself: in terms of his home and family, he is of vital importance; in the outside world, he is unknown and ignored. It is only when he can retain his inner dignity even when apparently mocked by the indifference of the unfriendly world, that he has achieved maturity. Mankind today, on the threshold of this voyage to the far-out reaches of the cosmos, experiences the same paradox described by the Psalmist. But this denotes an existential predicament, not a philosophical position.

In the Midrash there appear a number of statements favoring a strong anthropocentrism. To cite but one example among many, God is reported as saying to man, "all that I have created has been for your sake; take care, then, not to spoil and destroy My world."²⁴ This statement itself, however, reveals that the Midrash's conception of man's central role is not meant as a definite metaphysical evaluation, but as a didactic device which makes use of hyperbolic homilies.

Somewhat more to the point are a number of statements, throughout the midrashic and Talmudic literatures, concerning the existence of other worlds. Thus the Talmud (*Avodah Zarah* 3b) speaks of God roaming over 18,000 worlds, apparently confirming the idea of the plurality of worlds, an idea already entertained by the ancient Greeks. (Saadia Gaon, however, about whom more will be said later, interprets this passage as referring to successive rather than simultaneous worlds. In other words, this the 18,000th world—an idea that accords with the well-known midrash [*Bereshit Rabbah* 3:9] that God builds worlds and destroys them.²⁵)

Normally one would search first in the Halakhah and its pre-suppositions in order to derive an authentic Jewish *Anschauung*. However, I do not believe this can be done in connection with our theme. As a system of law, or way of life, Halakhah is necessarily concerned with man and his earthly activity. As pre-eminently the spiritual guide for human conduct rather than a metaphysical system or theosophical doctrine, the Halakhah must be man-centered. Its anthropocentrism cannot, therefore, be taken as a philosophical judgment. It would be astonishing

indeed were we to find any reference in the Halakhah that might lead to a view of the world beyond earth-man. "This is the law of man" (*zot torat ha-adam*) defines the scope of Halakhah: man.

The World's Axle—or a Drop of the Bucket?

In the preceding chapter, we presented the two major points of view current in the medieval Jewish philosophic tradition as to the validity of anthropocentrism. Saadia, the great anthropocentrist, considered man "the axle of the world." He was not alone in this view, although he gave it its most forceful and exhaustive treatment. The list of those who were committed to an anthropocentric conception of the universe is quite impressive. They include Philo, R. Bahya Ibn Pakudah, R. Yehudah Halevi, R. Moses ben Nahman, R. Joseph Albo,²⁶ and R. Moses Hayyim Luzzato, amongst others. The Kabbalists, asserting an anthropological-cosmological equivalence, and regarding the world as a symbol of the divine, are especially powerful in their advocacy of the centrality of man in the universe.

Were Judaism the kind of religion that tended to adopt rigid dogma and official ideologies, the approach outlined above, espoused by so many leading thinkers, would no doubt have been enshrined as sacred dogma and we would be hard put, in this last third of the twentieth century, to defend it in the face of signs of man's non-singularity in the universe. Judaism, however, seeks clearly defined limits and a high degree of uniformity only in conduct, and prefers to reduce to a minimum the ideological postulates to which assent is demanded of the believer; thus the emphasis on Halakhah on the one hand, and the reaction against Maimonides' dogmatological endeavors on the other.

Fortunately, as we have seen in Chapter IV, Maimonides, probably the greatest Jewish philosopher and Halakhist of all times, takes a position diametrically opposed to Saadia's theory of man's superiority in the universe. Not only is man not "the axle of the world," he is a mere "drop of the bucket." Maimonides held that there is no need to exaggerate man's

importance, and to exercise a kind of racial or global arrogance, in order to discover the sources of man's significance and his uniqueness.

It is noteworthy that not only did Maimonides not feel it necessary to adopt anthropocentrism in order to strengthen the underpinnings of Halakhah (which does not take anything beyond man into consideration), but he discarded such a view of man in the very introductory chapters of his great halakhic code! Obviously, Maimonides held that the validity of the Halakhah does not require an anthropocentric presupposition.

Maimonides thus deflates man's extravagant notions of his own importance, and urges us to abandon these illusions. Two centuries later, Ḥasdai Crescas was to go one step further and refute the whole Aristotelian notion that the universe is composed of only one system of concentric spheres. With Crescas' idea of a large number of systems—according to Professor Wolfson, an infinity of worlds—the whole anthropocentric argument proceeding from the structure of the universe collapses completely.

A Good Cosmic Address

We find, therefore, a development in medieval Jewish philosophy—that lays claim to being an authentic exposition of Judaism—which rejects man's centrality in the universe, and, anticipating the orientation of so many modern thinkers, both scientists and non-scientists, considers him not "the axle of the world" but "a drop of the bucket." It is philosophically irrelevant whether it is the angels and soul-possessing spheres or some far-off intelligent biological races to which man must yield primacy or at least share the universal limelight. It is of the *utmost significance* that this philosophical anthropology which denies cosmic superiority to man was proposed and espoused by a man who in no way whatever considered that this theory contradicted his cherished notion of man's significance as a Godlike creature or his worthiness of divine concern (revelation and Halakhah). It is important to emphasize this point because it apparently is lost on most of those who have

ventured into the philosophical consequences of what they consider the imminent discovery of extraterrestrial life.

Man's *non-singularity* does not imply his *insignificance*. Metaphysical dignity is not part of a numbers game; there is nothing in logic or philosophy that insists upon it being in inverse proportion to the number of beings who participate in it.

Judaism, therefore, can very well accept a scientific finding that man is not the only intelligent and bio-spiritual resident in God's world. But Judaism cannot draw the premature and utterly misleading consequences that some already have done. Man's non-singularity does not contain, contrary to Shapley's self-assurance, "intimations of man's inconsequentiality." It is not because we "cherish our stuffiness," but because we cherish the cosmic meaningfulness the Creator impressed into all parts of His vast creation, that we affirm our faith that God is great enough to be concerned with *all* His creatures, no matter how varied and how far-flung throughout the remotest galaxies of His majestic universe.

Shapley, and those who have followed him into the "new materialism," are profoundly mistaken not only when they naively assume a direct relation between the number of intelligent races and the intrinsic value of each, but even more so in assuming that the displacement of man and his solar system from the geographical center of the universe implies his metaphysical marginality and irrelevance. Surely we deserve more enlightenment and more sophistication than that from those who miss no opportunity to press upon their fellows the need for philosophical adjustment and revision. We have seen, in the case of Saadia and Maimonides, how the same assumption of the relation of value to position or structure can be interpreted in diametrically opposed directions. The same philosophical positions can be maintained without recourse to the structure-value argument, whether in its centripetal or centrifugal forms. One may accept, for instance, Saadia's anthropocentrism or Maimonides' opposing view, but modern men need not accept the medieval methodology which assigned values—either high or low—to structural positions. Such concepts disappeared

with the collapse of Ptolemaic geocentrism. Yet in his anxiousness to prove man's spiritual inconsequentiality by pointing to the insignificance of his locale in the cosmos, Shapley reveals his medieval bias: that geography determines metaphysics.

It matters little whether the globe we populate stands at dead center of the Milky Way, which in turn is at the very center of all the billions of galaxies, or whether we are residents of but one planet of a star that is 50,000,000 light years off-center in a galaxy which is in itself only one of billions in a remote corner of the magnificently spangled heavens. By way of analogy, the brilliant and saintly R. Elijah of eighteenth-century Lithuania gained immortality not because he was the mayor of Vilna who lived in an opulent official mansion in the center of the city, but because he was the Gaon of Vilna who never ceased studying Torah and cared little that he spent his years in a cold hovel in the impoverished outskirts of the city. Similarly, the claim by a race to spiritual dignity and intrinsic metaphysical value does not depend upon a "good" cosmic address. It depends only upon the ability of the members of that race to enter into a dialogue with the Creator of all races. God makes Himself available to His creatures wherever they are in His immense universe; He is not a social snob who will not be seen in the cosmic slums and alleys.

The Community of the Unique

The question of the uniqueness of humanity is more semantic than substantive. Few scientists of those who have totally committed themselves to the proposition that extraterrestrial rational life exists, expect to find duplicates of man. There is fantastic variety among the many forms of life on earth, and even among human types; one has little reason, therefore, not to expect even greater variety in nonearthly species.

But even if such creatures should turn out to be morphologically similar to man, this fact has no bearing on theology. For one thing, the uniqueness of man as such is nowhere established as a dogma. The Bible speaks of man as created in the divine Image, in contrast to other forms of terrestrial life; it is for this reason that the sons of Noah were permitted to

become omnivorous, despite the early vegetarianism to which Adam and the succeeding ten generations were subject. Nothing is said of other races, for indeed Torah was given to man on earth and its concern is limited to terrestrial affairs.

Furthermore, even if we grant that the doctrine of the uniqueness of man is an unspoken but real premise of the theistic outlook, it remains unimpaired by the existence of other intelligent races—if the concept is properly understood. The uniqueness of man is not a racial doctrine or biophysical phenomenon. It refers to the spiritual dignity of creatures endowed with reason and free will. On earth, only man fulfills these conditions. If we should discover other free and rational species, we shall of course include them in the community of the uniquely bio-spiritual creatures. Still excluded, will be the multitude of other creatures from bacteria through elephants, and the various inferior biological forms that may populate other globes elsewhere.

The uniqueness of man has been challenged not only by overenthusiastic astrophysicists and exobiologists leaping to premature and unearthly conclusions, but also by scientists such as John C. Lilly who, in his *Man and Dolphin*, describes his experiments in interspecies communications, and his high estimate of the dolphin's intelligence. Long before, indeed, the most powerful attack on man's uniqueness on earth was launched by David Hume, and even he had a long line of predecessors, from Plutarch down, who refused to acknowledge any qualitative differences between man and animal intellectually or morally.²⁷ The fundamental thesis that underlies this approach is, apparently, that if one can prove quantitative differences in intelligence and moral awareness, then qualitative differences are eliminated. If, therefore, a graded scale can be set up whereby the differences in intelligence, brain-size, etc. between dog and man are bridged by discovering that the dolphin fits in-between the two, the conclusion must be that human intelligence differs only in degree and not in kind from that of domestic animals. So, for instance, if animals can be shown to possess a primitive ethical sense in their societies—as Prince Kropotkin showed at the turn of the century in his

Mutual Aid: A Factor in Evolution—then man presumably is nothing but an advanced animal. But this premise is fallacious and self-defeating, for by pushing the argument far enough one can banish the concept of quality altogether. As long as life has a material basis, and as long as quantity remains a fundamental category of matter, quality will be reducible to quantity. A magnificent sunset and a vulgar television program can be shown to differ in frequency and wavelength of electromagnetic disturbance. Must we, therefore, be forced to conclude that there is no qualitative difference between them? Since all matter is reducible to atoms in different combinations, and since atoms, indeed all matter, are further reducible to energy states which are quantifiable, does that abolish all meaningful differences between the neighing of a horse and the philosophizing of a Hume? The radical nihilist may perhaps answer in the affirmative, but then all further discussion becomes meaningless for nothing makes sense in such an illusory existence.

The assertion of quality does not deny the presence of quantity. The dolphin may be *less* intelligent than the scientist and *more* intelligent than the dog, but meanwhile, it is Dr. Lilly who studies dogs and dolphins while the dolphins study neither scientists nor canines.²⁸

The category of uniqueness, in the theological sense we have been intending, is such a quality. It certainly has a biological and psychological basis. But the fact that one may analogize between mankind and animals, or computers or extraterrestrial races, does not deny it. Humanity's uniqueness, its divine Image, is a measure of spiritual competence and ability which depends upon certain intellectual attainments. All who have attained this degree of intellect and volition in the kind of combination that makes them think of God and yearn for Him are members of the community of the spiritually unique—no matter where they be.

Moreover, caution must be exercised in accepting uncritically every latest pronouncement by scientists whose naturalistic bias leads them to conclude that man is "nothing but" an animal of advanced intelligence. Man's body is physical, his intelligence is subject to quantification, his psychology can be re-

duced to natural instincts, his mentality measured in numbers; hence, they conclude, man can in no way be considered anything but an animal, and his uniqueness is but a self-serving and vain myth. However, a great deal more attention must be paid to a dimension of human existence that is *not* shared by any member of the animal kingdom: the "will to meaning." The contributions of logotherapy, or existential analysis (what has been called "the third Viennese School of Psychotherapy") have presented a cogent case on behalf of man's striving to find a meaning in his life as the primary motivational force in man. "Man's search for meaning is a primary force in his life, and not a 'secondary rationalization' of instinctual drives."²⁹ According to this thesis, the meaning man seeks is outside himself. The fulfillment is spiritual rather than only psychological, and man retains an inner freedom. Certainly this spiritual dimension of human existence must be considered before any value judgments are made on man as "nothing but" a higher animal.

A Rash on the Sky?

Maimonides' anthropology offers us a much needed restraint upon the self-importance that so often afflicts the various forms of modern humanism even more than theology, even if life should never be found elsewhere. In the history of philosophy there was, as we have seen exemplified in Saadia, a pronounced emphasis on man as the purpose of the universe. The teleological bent, in the Middle Ages, certainly tended towards extravagance. The illustration that comes to mind is the medieval Islamic theologian who cited, as one of the most striking examples of God's kindly concern for the welfare of His children, the fact that He never sent rain to deserts where it would be wasted, but only to the fertile valleys where it would do some good. Maimonides' broader view, no less than the current speculations, offers a healthy corrective to the inclination by man to read his own interests into Nature and presume himself to be the purpose of all the cosmos.

However, there is a wide gap between Maimonides' rejection of an anthropocentric teleology and the facile assumption by

certain contemporary agnostics that man is utterly purposeless. The smug assertion that from the cosmic point of view, as one scientist put it, life is a very unimportant affair, is absurd for (as Barzun has pointed out) it presupposes a cosmic point of view which, by definition, does not exist. The scientist may exclude purpose from the *a priori* categories with which he operates, but he can make no positive assertions about its absence; he may bracket teleology, but he may not deny it. As Whitehead once said, "Scientists animated by the purpose of proving that they are purposeless constitute an interesting subject for study."³⁰ To declare life and man purposeless is to presume a knowledge and a superiority to which one who is but a man may not legitimately lay claim.

For Maimonides, and this is certainly a viable and reasonable position for contemporary theists, man may not *be* the purpose of the universe, yet he may *have* a purpose *in* the universe. Every species in creation, according to Maimonides, has as its immanent purpose the will of God. Mechanistic origin and teleological end are identical: all existence comes from God and exists for God. Mankind, like every other kind, fulfills the will of God by its very existence. Whatever detracts from man's existence frustrates the purpose and will of the Creator.

For the believing Jew, therefore, man can accept a far humbler place in the universe than previously assigned to him without surrendering his intrinsic worth and meaningfulness before God. The religious person does not consider mankind, even if it is not the "axle of the world," as nothing but a swarm of two-legged vermin emerging accidentally from a primitive scum to disfigure the face of the earth; even as he does not take seriously Hegel's brash statement that the stars are nothing but "a rash on the sky." All that exists is endowed by the Maker with the dignity of purpose. The purpose of man's life, therefore, is profoundly religious and very real—and unaffected by the fact that he is not the sole *telos* for which all else was called into being.

The Uniqueness of the Creator

The theory of man's non-singularity in the universe is based,

as has been mentioned above, upon the naturalness of the evolution of life given the right conditions. This premise is being tested in laboratories at this moment. Scientists expect that there will be synthesized, from simple non-living matter, long-chained compounds which have the ability to replicate themselves from given materials in their environment. Such experiments have, as of this writing, not been successfully concluded. Few scientists doubt, however, that this historic synthesis will be performed imminently.

Quite independently of the question of the existence of extra-terrestrial intelligent life, the creation of living matter in a test-tube apparently poses a powerful challenge to traditional religious thinking. Whereas the former brings into question the uniqueness of man, the second, as it were, challenges the uniqueness of God. If man can create life, does not the concept of a creating divinity become superfluous? And if we strike down the first verse in Genesis, does not all the Bible and all religion fall with it?

Our approach here is fundamentally the same as our approach to the problem of the uniqueness of man. Here, too, a concept has been assumed simply because no facts, or even the possibility of the existence of such facts, arose to challenge it. However, upon further reflection and deeper examination it will be found that nowhere in the Bible or the Jewish tradition is such an idea explicitly advocated. There is no fundamental of the Jewish faith that, for its own dogmatic integrity, requires or implies the belief that God is the *exclusive* Creator of life.³¹

“From Whence Thou Comest”

Our first problem concerns the “naturalness” of life. Our position is that even if all the steps in the creation of life from inert chemicals can be determined with the exactitude necessary for experimental duplication, this in no wise detracts from the value of life as such nor from the faith that it was brought into being by the word of God.

A consideration of modest origins inspires meekness but does not diminish value. A full-grown man develops from a fetid seminal drop and an all but invisible ovum. The awareness of

this fact is, indeed, urged upon man by the Sages in order for him to acquire humility and thus avoid sin;³² this, however, does not make man any the less worthy. Great paintings consist of cheap oil colors placed upon plain canvas, great music is a combination of elementary sounds, and great architecture can be reduced to ordinary building materials. In all these cases, a comparison of origins and end-products serves not to diminish the resulting achievements but to occasion marvel at them.

Thus, too, one may know the exact steps and all details of the technique whereby such ends were attained. Except for the irrational cynic, such knowledge serves to enhance the appreciation of the miracle of creativity. A Rembrandt and a Beethoven and a Wright are all the greater for having created step-wise from simple materials rather than magically conjuring up exquisitely finished products by some hokus-pokus. So is the step-by-step development of life from simpler stuff a source of wonder which should increase as we contemplate the process of such development.

For indeed, after the first moment of creation *ex nihilo*, when the formless primitive stuff of the world (*tohu va-vohu*) was called into being from nothingness, all divine activity was restricted to the production of new forms and structures and combinations from preexistent material; in the beginning there was "creation," *beriah* (i.e., out of nothing), but thereafter came only "formation," *yetzirah* (i.e., out of previous stuff).³³ Life is no exception to this rule; it, too, was formed from material that existed before it, since the moment of creation. Thus, vegetation was brought out from the earth (Gen. 1:11), fish from the water (Gen. 1:20), animals from the earth (Gen. 1:24), etc. Even man was created out of dust from the ground (Gen. 2:7). In each of these cases, the Torah implicitly grants that natural chemical and biological processes were utilized by the Creator to produce His creations. Man, too, insofar as he is a natural being, was the result of a natural developmental process. (The only difference is in a realm other than the natural: man is also a metaphysical being, he represents an interpenetration of the material and the divine.³⁴) The crea-

tion of life is, therefore, according to the Bible, no more and no less "miraculous" than the creation of any of the complex inorganic substances that were formed out of the primordial chaos after the first instant of *creatio ex nihilo*.

"And then Solomon Built"

The fact that the Bible does not record the intermediate steps that came between the beginning and the end of the process of creation does not constitute a denial of their existence or an assertion of a miraculous suddenness in the appearance of the final phenomena. If, as we have said, all divine activity after the initial act of creation *ex nihilo* was *yetzirah*, or formation of new objects from preexistent material, it follows that such formation was in accordance with natural law. For by "natural law" we mean the revelation of the divine will in relation to all natural substances—the way God acts towards His creation. It is reasonable, therefore, to assert that natural law was created together with nature; that in bringing the world into being He also brought into being the manner in which His will concerning its existence was to be executed. This is but another way of saying that God knew what He was doing. To attribute to God the violation of natural law at the very beginning of His "formation," after the initial act of "creation," is to attribute to Him an inconsistency that is nothing less than absurd. Quite evidently, therefore, a genuine religious position would incline to a "natural" divine activity upon nature, rather than a "miraculous" suspension of natural law in the course of bringing the present phenomenal world into being.

The Bible is not an engineering manual or science textbook. It does not seek to describe the steps by means of which God created. Its sole aim, in Genesis, is to assert that God is He who brought all into being, and that certain moral and religious consequences flow therefrom. As Rabbi Kook has pointed out,³⁵ it is an aspect of Biblical style to attribute the end product to the one who is ultimately responsible for it, while overlooking all intermediate steps as secondary. For instance, Solomon was responsible for the building of the Temple in

Jerusalem. He hired the laborers, commissioned the architects, raised the funds, and superintended the general progress of the work. At no time, of course, did Solomon take leave from his royal duties and relinquish his regal dignity in order to hew the stone and lay the bricks and saw the wood. Yet the Bible states quite simply, "And then Solomon built..." And, of course, the Bible is right! So with the creation: "And God said let there be light" is not of one piece with the magician pulling a rabbit out of his hat. No doubt the separation from the primordial mass-energy nebulae of electromagnetic waves of certain frequency followed natural law, i.e., was in character with the nature of what God had made; yet it would be ridiculous for anyone to expect that a list of mathematical formulae and technical instructions be included in the Bible. "In the beginning God created," and "God said let there be..." are sufficient for man to draw the moral implications for his own existence. That is all the Torah wants of us. And what holds true for the creation of inanimate matter holds true for animate material. The ultimate Creator is God alone; the intermediate stages are of no religious consequence.

If, then, we have no Biblical warrant for designating the creation (or "formation") of life as a separate category, different in kind from that of inorganic matter, then all that applies to the latter applies to the former. To see in such creation a challenge by man to the prerogatives of God, is to ignore some of the fundamentals of the Biblical conception of man. For a significant aspect of the vocation of man is—creativity.

Technology and Theology

Indeed, an unprejudiced reading of the Biblical text leads us to the conclusion that the capacity for creation is the primary meaning of man's divine Image. All we know about God at this point early in the Bible's story is three things: that God is the Creator of all things; that He created man as a natural being endowed with special significance; and that He is the source of absolute moral judgments ("And God saw... that it was good"). To be like God, therefore, means that man has these three duties: to advance the welfare of the world by mar-

shalling his creative abilities (*yishuv ha-olam*); to protect human life and improve the conditions of life (*hessed*); to establish the absolute moral good in society and civilization. Man can fail in this mission, and his failure is not so much the forgetting of his divine Image as his distortion of it, his abuse of the qualities he shares with his Maker. Early in Biblical history we meet with such tragic errors where man does not *imitate* God but *impersonates* Him, where man does not deny, but plays God. The murder of Abel by Cain is an instance of man, charged with enhancing life, imagining himself to be its master who may therefore destroy his possession with impunity. The sin of Adam and Eve in the Garden of Eden is the result of failing to apply the divinely sanctioned norms and seeking, instead, to supplant them with moral judgments of their own devising.³⁶ The building of the Tower of Babel is an illustration of man who fails to employ his creative technological genius in the furtherance of the divine ends but uses it instead in an endeavor to subvert the purposes of God.

Whatever the nature of man's misuse of his divine Image, this much is certain—that the creative human act is an expression of the Image of the divine Creator. Technological creativity is surely one of the most effective means of "subduing" nature (the divine command to man: "fill the earth and subdue it" Gen. 1:28); Hirsch sees the human-divine cooperative participation in creativity in the words "which God created to do" (Gen. 2:3), i.e., God created the world unfinished, charging man "to do" or to complete by exercising his creative talents. The Bible follows the story of Abel and Cain (who, as a "worker of the earth," symbolized the investment of human talent and toil in the creative development of Nature, as opposed to Abel who passively guarded his flock³⁷) with a description of man's growing technological creativity: Cain himself "builded a city"; Jabal, Jubal, and Tubal-cain contributed to the enhancement of man's creative propensities in husbandry, the arts, and the crafts (Gen. 4:17-22).

Human creativity is therefore an expression of man's God-likeness. Certainly one ought not see in this capacity of mankind a challenge to divine creativity; this, indeed, was the

error of the builders of the Tower of Babel. When primitive man rubbed two stones together and produced a spark, he was not displacing God's creation of light and fire; he was exercising his divinely ordained vocation of creativity for enhancing the material world by use of his talents, and was thereby imitating God who said "Let there be light." The invention of the scissors was a creative extension of the human hand, the automobile of the human foot, and the computer of the human brain. Man, in all of these, has creatively imitated his Maker. God is a *Rofei Holim*—He heals the sick. When mankind makes medical progress it fulfills its divinely decreed mission; it does not compete with the Lord. If, therefore, man will discover the secrets whereby living matter is produced from inanimate stuff, he will not be challenging God but, quite the contrary, fulfilling in an unparalleled manner his function of *imitatio Dei* in the assertion and exercise of his creative genius.

The mentality that sees in every new advance of science and technology a further challenge to God and the belief in a Creator, reveals a remarkable anthropomorphic bias: as if God were an aloof, autocratic, and tyrannical Deity, jealously guarding His own domain and His industrial secrets from any encroachment by man whom He regards as His competitor for hegemony over this contested realm. Nothing is further from a mature theistic outlook than this kind of interpretation placed upon the imminent experimental production of life in the laboratory. A Norwegian scientist, A. E. Wilder Smith, recently took issue with such unwarranted materialistic interpretations and conclusions. The experiments prove, he said, "nothing more than that, *with the necessary interference from outside*, life may result in a previously lifeless system. . . . In scientific experiments of this kind, a scientific mind or intelligence at the back of the experiment is the absolute prerequisite for any hope of achieving success. . . . It is plain scientific nihilism to attempt to replace the carefully planned scientific experiment by the soup-stock pot and to say that billions of years will do what the planned experiment can do but with the greatest difficulty, effort, and planning. . . . If someone succeeds in repeating and confirming my published experiments,

who, in the name of Science, would interpret this feat as proof positive that I do not exist, that I never did the experiments, and therefore need never be reckoned with!"³⁸

With the experimental synthesis of life, man will have reached the highest rung yet in the imitation of the divine attribute of creativity. His achievement will be profoundly spiritual as well as scientific if the mysteries he will have thus uncovered will lead him to enhance human life, relieve it of its miseries, and cause him to reflect upon the greatness of the Creator and the moral obligations He has placed upon His co-creative creatures. Man's accomplishment, by the same token, will be presumptuous and diabolical if these marvelous secrets will fill him with arrogance, intoxicate him with a sense of complete self-sufficiency, and ultimately lead him to destroy every vestige of life on his planet in an ironical reversal of the "Big Bang" theory of how this universe came into being.

God and Man

We have dealt so far with the question of formulating a religious anthropology in the context of the new cosmography. Also of importance is the effect of these conceptions upon religious psychology, i.e., the manner in which believing people conceive of and intuit their relationship to the Deity.

Probably the major result, in this connection, of the abandonment of man's exclusiveness and the tendency to devalue humanity as such, will be the continuing effort to strip God of the attribute of personality. If the universe is so much more vast and complex than we heretofore imagined; if man is much less singular, no longer unique, and perhaps surpassed in wisdom by other nonterrestrial species; then perhaps God is so great, so remote, that He is unconcerned with us earth-creatures strutting self-centeredly over an insignificant planet. The very majesty of His universe threatens such fundamentals as God's Providence, His personality, His relatedness to His creatures. To imagine that God has personality, like a mere mortal earthman; that He is concerned with our trivial interests; that He has anything to do with *us*—is considered an embarrassment, an offense to our modesty. The threat is not so much intel-

lectual and theological as emotional and psychological; but what begins as the latter often ends as the former.

Divine Personality

Whether or not God possesses personality, i.e., whether or not He can and does relate meaningfully to man, is a religious question of the most fundamental significance. At one extreme is a crude anthropomorphic paganism—God as not only a personality but a person: inspiring matter, tangible, and possessed of the imperfections as well as the virtues of man. At the other end is a rarified “God-concept,” abstract, indifferent, ethereal, and ultimately of no consequence. Judaism has always found itself located between the conception of the Greek philosophers of an impersonal Deity who is more a theory than a being, and the gross earthiness of the pagans who created their gods in their own images. Its understanding of God, insofar as it admitted that God can be comprehended by man, entails a major paradox: God as Absolute and as related, as beyond man and as involved with him, as personal but not a person, as unchanging and as responsive to man’s initiative, as omnipresent and yet allowing for the existence of the extra-divine. According to the interpretation of R. Hayyim of Volozhin, this is the essence of the central mystery of religion, known to the Kabbalists as “the secret of the *tzimtzum*.”

The dimensions of divine personality may be identified by the philosophic terms “immanence” and “transcendence.” Judaism, for the integrity of its understanding of God, refuses to relinquish either of these elements. God’s withinness in the world and His beyondness from it are both affirmed. To separate them is to deal a fatal blow to all of theistic faith. Immanence alone results in a thoroughgoing pantheism, while transcendence alone leads to a complete deism; the first totally identifies God with the world, the second divorces them without any hope of contact or relationship. One may emphasize transcendence and the related ideas that cluster about it: divine justice, universalism, awe; or immanence and its related concepts: divine mercy, revelation to and election of Israel, love of God. But one may not disrupt the equilibrium by denying any

one facet, for then one has excommunicated God and reduced Him to a cosmic irrelevancy; one then has a Deity about whom philosophers may debate and meditate, but not a God to Whom believing people may relate and Whom they can worship.

These terms and this analysis are not merely later philosophical constructs superimposed upon the original Jewish view of God. The words "immanence" and "transcendence" may, indeed, be terminologically inadequate just because they are too precise, too static. But the Bible itself uses two related terms, the meaning and influence of which have recently been traced and described by Israel I. Efros. These two are *Kedushah* (Holiness) and *Kavod* (Glory) which, while they are not identical with the philosophic terms of transcendence and immanence (thus, for instance, *Kavod* does not mean immanence alone), signify similar ideas. Holiness implies the beyondness of God and His supramundane existence, while Glory refers to God's involvement in the world, His quest for man and for man's responsiveness to Him. "Holiness . . . and Glory . . . never existed separately because then Hebraic thought would have expired either in a deistic frost or in a pantheistic flame."³⁹ God is both "Holy" and "Glorious"; the climax of the Seraphic Song in Isaiah (Chap. VI) is the affirmation of both apparently contradictory adjectives—"Holy, holy, holy is the Lord of Hosts, the whole world is full of His glory." And the Zohar describes divinity as both *memalei kol almin* (filling all the worlds) and *sovev kol almin* (surrounding or governing all the worlds).

Beyond Personality

This tension or dialectic, then, between transcendence and immanence, or holiness and glory, constitutes the phenomenon of divine personality. But Jewish thinkers, both of the philosophical and mystical traditions, have insisted that God cannot be limited to personality alone. To do so would be to project human finitude upon Him. Medieval Jewish philosophers have conceived of God as the Absolute, the utterly Simple, uncaused and unchanging. The Zohar speaks of God as the *En-Sof*, the One Who in His ineffable, mysterious Oneness cannot even be

given a Name.⁴⁰ In His absoluteness, the *En-Sof* is transpersonal, beyond the immanence-transcendence tension by means of which He becomes related to that which is other than divine. In His absoluteness, then, God is totally insular, self-contained, unconcerned with the world or man. How to comprehend both ideas within one conception of God is, of course, the great problem of religious thought. For the philosophers, it posed the essential problem of "reconciliation" of the two concepts, one arrived at by philosophy, and the other the "living God" of the Bible. For the Kabbalists, this is the great and awesome mystery of mysteries. But both are affirmed—the Absolute and the Related, the transpersonal and the personal, the *Deus absconditus* and the *Deus revelatus*, the ontological and the existential, God as "the ground of being" and as *a Being*.

According to the Kabbalah, the denial of the unity of these two aspects of God, the divorce or rupture between them, is the primal sin of man. Now, when the immanence-transcendence equilibrium is denied, and God is conceived of as either totally immanent or totally transcendent, we have in effect repudiated the personal nature of God. We have, then, a Deity who is absolute, infinite, and totally unconcerned with and hence irrelevant to man. This, however, signifies "the death of God," and is not at all the "living God" of theistic religion. Judaism is, thus, renounced when the personality of God is negated by a denial either of His transcendence or His immanence. Only the affirmation of both leaves us with a God who is related, concerned, and relevant to man (as well as absolute and transpersonal).

This fine equilibrium is jeopardized at those moments in history when man comes to a sudden awareness either of how great God is or how picayune and insignificant he is. The two feelings are related as two sides of the same coin, and both, in their vision of God and man, tend to separate the two and gradually make the gap an unbridgeable abyss which ruptures the dialogue between them, reduces man to nothing but a material object, and elevates God to a mere Idea or Power. The I-Thou relation is severed, and personality, both of man and God, is replaced by thingness—in the case of man, a thing sub-

ject to natural forces, and in the case of God, a thing or object of contemplation and intellection. Man and God, with the interruption of the delicate balance necessary for the existence of personality, are each reduced to an It.

Isaiah and Uzziah

An illustration of how this theological equilibrium was upset is given by Don Isaac Abravanel in his commentary to chapter 6 of Isaiah. It is worth summarizing his interpretation, for it is instructive of the theological tendency to deny the attributes of personality to God as man reaches sudden levels of awareness about himself and God.

The superscription of the sixth chapter of Isaiah, which contains the Seraphic Song, tells us that the prophecy came to Isaiah "in the year of the death of King Uzziah." According to the Targum of Jonathan b. Uziel, the expression "in the year of the death" is a euphemism; it refers not to King Uzziah's actual expiration, but rather to the attack of leprosy which struck him (II Chron. 26:16-21). For when Uzziah was at the peak of his strength and triumphs, despite the fact that he had always obeyed the laws of the Torah, he entered the Temple and, although not a priest, proceeded to offer up the incense, in defiance of the law. The priests ordered him out of the Temple, but he angrily refused. His punishment came with miraculous swiftness: leprosy broke out on his forehead.

What moved the heretofore righteous King to his presumptuous defiance of the law of Torah? And why did the leprosy strike his forehead instead of, for instance, his hand wherewith he committed the sinful act? Abravanel explains that Uzziah, in his later days, had come to appreciate, in a most extreme manner, the sublime transcendence of the Almighty. He was possessed by the greatness of God and the vastness of the divine realm. He therefore believed that if he, the King, would himself offer the incense, his people would be even more impressed by the awesome loftiness of the God of Israel. But so far did Uzziah go in stressing God's transcendence, that he entirely eliminated the aspect of immanence, of which Providence is a function. He therefore thought of worshiping God only in

His transcendence, believing that He is so far beyond the petty concerns of insignificant man, that He is not at all interested in the minutiae of Halakhah, of ritual and law.

Uzziah's crime, therefore, was not merely a technical one of a non-priest performing the service, but a far more serious transgression: a heretical doctrinal error, the deistic idea that God is infinitely remote from the world and in His sublimity does not care about the actions of man. Because his sin was fundamentally an intellectual one, the leprosy, symbol of divine displeasure, broke out, appropriately, on his forehead.

The reaffirmation of the traditional Jewish teaching, the assertion that divine immanence, Providence, personality, and revelation must not be sacrificed on the altar of transcendence, was the reaction of Isaiah, in this famous chapter, to the displacement of the equilibrium by Uzziah. When leprosy struck the King (the year of his "death") for his heretical theology, initiated by his extravagant celebration of God's dominion over this immense universe, the Prophet addressed the King, announcing that he, too, had visions of the grandeur of God sitting, as it were, upon "a throne high and lifted up." Yet, it does not follow that He therefore abandons earth and man and withdraws from the scene of human endeavor. For "His train fills the temple"; the Divine Presence remains within the world, within the Temple, within society, and accessible to mankind.

To Abravanel's remarkable insight may be added that Isaiah's vision of the Seraphic Song underscores the same theme. "Holy, holy, holy is the Lord of Hosts" indicates God's aloofness, His transcendence; the Lord is beyond the world, unaffected by man, the same after creation as He was before it. "The whole world is full of His glory (*Kavod*)" implies God's concern for man, His immanence, His involvement in human destiny, His craving for man's love. Both are affirmed, in the same verse, by the fiery Prophet in his protest against Uzziah's attempt to depersonalize God by declaring Him to be beyond the petty concerns, worship, and obedience of man.

There is a striking similarity between this clash of theological conceptions in ancient Judea and the ferment in twentieth-cen-

tury man who ponders whether or not a God of such a vast universe even thinks about him. A modern version—indeed without too much revision—of the Judean King's deism threatens to reemerge in the contemporary confrontation between traditional theistic attitudes and the new cosmological and exobiological conceptions. The consciousness of the awesome magnitude of God's creation, the awareness of the likelihood that other beings, possibly superior, populate other planets in the far reaches of the cosmos—ideas that stagger the imagination and shock our comfortable human prejudices—all these lead us to an enhanced and deepened sensitivity to the transcendent greatness (*Kedushah*, holiness) of God.

But these considerations tend to a one-sided view where divine *Kavod* (glory) is abolished, where man becomes entirely unworthy of divine concern, and where God is, as it were, too busy with more important matters. For all its sophistication, this deistic vision of a solely transcendent God who is too preoccupied to attend to earthly matters is primitively anthropomorphic: it imagines God to be a busy executive, a kind of Chairman of the Board of the Universe who leaves individual details to His vice-presidents and secretaries. The traditional Jewish conception is far more compelling: part of God's endless praise is that despite His loftiness and our lowliness, He is still concerned with every one of us—and every other rational sentient race anywhere. "Wherever you find mentioned the greatness of the Holy One, there you find His gentleness mentioned."⁴¹

The Lonely, Crowded World

Paradoxically, in the days before man exerted his present control over and independence from Nature, when he still was painfully conscious of his own impotence, he held to a view which regarded man as sufficiently significant to warrant the love and the judgment of God. Today, with a surge of power which has liberated him from the mighty grip of gravity and has even extended his hegemony beyond earth, he finds himself trivial and irrelevant, unworthy of divine attention, alone in

a universe from which teleology and value have been abolished, a world as cold as it is vast and as lonely as it is crowded.

The key to this paradox of man's view of himself is his thought about God, provided he concedes His existence in the first place or, more accurately, what he thinks God thinks about him. When he holds to a conception of a personal God who creates and reveals, who seeks man out and invites man to seek Him out, man is, despite his frailty and intrinsic worthlessness, endowed with significance by his Maker by virtue of His personal nature. When, however, man depersonalizes his God, he dehumanizes himself. No matter how much power he acquires over his environment and beyond it, no matter how much he tries to read his own values into his life by right of his own existential autonomy, he remains desperately alone. His whole scientific armory cannot forge for him a weapon with which to win more than physical significance; and as long as he remains without metaphysical worth, he regards himself, in his heart of hearts, as a nothing, a cosmic accident, shrieking his utter loneliness against the infinitely empty and unresponsive heavens.

The relatively new theological talk of a "developing" and an "evolving" God, are not only not a solution, but the core of the problem. They are a deception, nothing more. A deity subsumed under the Theory of Evolution is no more than an abstract animal. A God who is not supernatural is not Holy. The metaphysical becomes, in such a context, an illusion, and man a spiritual blank. In fact, this conception of an emerging, imperfect, totally immanent God striving for self-realization is, for all its alleged sophistication, strangely primitive, especially when compared to the supposedly naive idea of the God of the theists. Biblical man, fully conscious of his own natural limitations and frailties, conceived of a God who was perfect, omnipotent, supernatural. No one could, indeed, accuse him of creating a God in his own image. But some contemporary men, themselves imperfect, well-intentioned but flawed in practice, see mankind as a link in the evolutionary chain, a species whose origins were exceedingly lowly, but who strives for advancement in the same chain; and they posit a deity who

fits this very description. It is nothing more and nothing less than a modern version of a graven image.

The anticipated shock from the possible discovery of extraterrestrial intelligent life has thus served, even before such discovery has yet been made, to enlarge the gap between man and God. It may take one of two forms: an exaggerated transcendence or an extravagant immanence, either a God who is only "far out" or One who is not "out there" at all. But by whatever route one travels, he reaches the same theological dead-end: a God who really doesn't matter. Immanence and transcendence, divorced from each other and taken to an extreme, ultimately meet in a God without personality; and a God without personality inevitably must lead to a humanity without character.

What we have attempted to show is that such conclusions do not necessarily follow from the premises. A God who can exercise providence over one billion earthmen can do so for ten billion times that number of creatures throughout the universe. He is not troubled, one ought grant, by problems in communications, engineering, or the complexities of cosmic cybernetics.

CONCLUDING REMARKS

Understanding the Anthropocentrists

The new conceptions are incompatible, Eugene Rabinowitch asserts, with a belief "in the Creator of the world as concerned primarily with human affairs."⁴² Can we indeed any longer accept such a theology in the face of these new theories? The question, directed to a committed Jew, is of the when-did-you-stop-beating-your-wife variety. The key words are "any longer" and "primarily." Not only not "any longer," but not even heretofore did Judaism (in the teaching of all its major exponents) maintain that God was "primarily" concerned with man. Maimonides, as has been explained, did not consider man that important in the larger universe, and would have regarded such a statement, that He is primarily concerned with man, as an instance of anthropocentric presumption.

Honesty, however, compels us to recall that Maimonides was almost alone in advocating his particular conception of the position of man in the universe. Most other thinkers, led by Saadia, declared man to be the purpose of the creation and, hence, apparently consider that God is "primarily concerned with human events." If, then, there will emerge reasonable grounds for accepting the existence of extraterrestrial rational races, such attitudes will have to be revised. But the revision will be centered upon the word "primarily." Judaism will then accept the view of one of its most distinguished exponents, Maimonides, over that of the majority with whom he disagreed.

However, it is here proposed that even amongst those for whom anthropocentrism was a fundamental outlook, there were some of whom it cannot be said that they regarded the Creator as primarily concerned with earth-men. As an example one may cite the views of R. Hayyim of Volozhin who, for all his advocacy of the centrality of man in the universe and his Godlike spiritual dominion over the cosmos, by virtue of his being a microcosm (and, conversely, the conception of the cosmos as a macroanthropos), never was parochial in his theology, but held to a conception of God from which he explicitly purged such anthropocentric prejudices.

For R. Hayyim, the mystery of the *tzimtzum*, which so concerned the famed mystic, R. Isaac Luria, and the whole school of Lurianic Kabbalists, was essentially the paradox of divine aloofness from and closeness to man, His transcendent, impersonal beyondness and His personal dialogic concern for man. The terms R. Hayyim employs are *atzmut* or Essence and *hit'habrut* or Relatedness,⁴³ which are equivalent, respectively, to the categories described above: that of God in His Absoluteness, the *En Sof*, and God in His personality (which is defined by the immanence-transcendence tension). In His Essence or Absoluteness, God is beyond concern for man or for anything extradivine. Indeed, for God in His Essence *nothing else exists*. Together with his older contemporary, the Hasidic master, R. Shneur Zalman of Ladi,⁴⁴ he gives a severely literal interpretation to the words "and thou shalt know this day, and lay it to

thine heart, that the Lord He is God in heaven above and upon the earth beneath, *ein ode*" (Deut. 4:39)—the words are usually translated as "there is none else," by which is understood the exclusion of other deities. For both the Ḥasidic founder of *HaBaD* and the Mitnagdic heir of the Gaon of Vilna, however, the meaning is "there is nothing else"—literally—for there is only God, who in His allness denies ontological legitimacy to any other than Himself. What does not exist, what is only an illusion, cannot be of any interest to God. Hence, He is indifferent to man, to his aspirations and virtues and prayers. God in His *atzmut* is hidden, the *Deus absconditus*, completely "other" and oblivious to the illusion called the cosmos; He is ineffable and even unnameable. One cannot attribute personality to *atzmut* or God in His Essence.

Whatever we can know of God, anything we can say of Him or whatever Names we may apply to Him, all refer not to His Essence, but to His *hit'habrut*, His Relatedness. It is in His Relatedness, as the *Deus revelatus*, that God creates the world, seeks man out, reveals Himself to him, and is affected by man's worship and obedience. *Hit'habrut* is the domain of the mutuality of God and man, where the divine-human dialogue is legitimate and meaningful, where God as Personality confronts and engages man as a personality. *Atzmut*, however, is all absoluteness, transcendence; its is beyond "I," beyond "Thou," beyond "it."

How these two ideas can be embraced in one conception of an absolutely one God is the problem with which R. Ḥayyim grapples in his *Nefesh ha-Ḥayyim*. It remains the mystery of all mysteries which philosophy cannot comprehend and which only religion can accept, despite his suggestion of a resolution by means of dichotomy, a bifocal view: from God's point of view, there is *only* God, and naught else exists; from man's vantage, there is a real world to which God relates. Whatever the details of R. Ḥayyim's exposition, it is important to emphasize the utter denial of any possible dualism to God. It is man who is beset by the difficulty in comprehension; God remains One. The fault is that of theology, not *Theos*.

What is interesting, in addition to the assertion of both divine personality and impersonality (or transpersonality), and the obviousness that even a confirmed anthropocentrist like R. Hayyim does not consider God "primarily concerned with human events," is how R. Hayyim views the significance of man's spiritual conduct in the light of this theology.

Man's religious behavior—his ethical conduct, moral level, worship, observance of commandments—makes sense only from the point of view of God as He relates, as He turns outward and manifests Himself; in His absolute Essence, God is unaffected by man whose very existence is merely illusory under the impact of His ontological comprehensiveness. But for R. Hayyim this is not a static relationship, whereby all philosophically formulated attributes of perfection and absoluteness are assigned to Essence, and all religiously conceived qualities of action and responsiveness are designated as belonging to Relatedness. For R. Hayyim, there is a tension between the divine Essence and the divine Relatedness. There are times when God appears to withdraw into His Essence and abandon man to cosmic solitude; at other times He emerges from His hiddenness to seek man out, respond to him, engage him. Now this tension, this dynamic movement from Essence to Relatedness and back, is not a whim of God, not an autonomous event or series of events in God's life from which man is excluded. It is man who, by his orientation to God, determines God's orientation to him. When man turns his back on his Creator, He reacts in the same manner: He withdraws into His Essence, and refuses to relate to him. When man seeks out God—by observance of the *mitzvot*, by ethical conduct, by prayer, by study of Torah—God turns to him from out of His Absoluteness, and the area of Relatedness is proportionately enlarged.

God thus remains for man both personal and impersonal, immanent and transcendent, glorious and holy, related and absolute. The degree to which God appears to us in one guise or another depends upon us. But at no time is God other than both absolute and related. Man thus plays a crucial role in determining whether and how God will relate to him; but He

always remains in His infinite Essence absolutely beyond man, transcending his most vital concerns, even his very existence.

Hence, even as confirmed an anthropocentrist as R. Hayyim of Volozhin does not hold God to this one theater as a divine audience—or puppeteer—concerned “primarily with human events.” God in His infinite Essence still remains aloof from all of creation, which, no matter how vast or ancient, remains for Him a non-event. Were R. Hayyim to consider the possibility of extraterrestrial rational creatures, he could easily revise his system, limiting man’s efficacy in affecting the Essence-Relatedness tension to the scene of earth. The shift from cosmological to existential terms—man influencing God’s willingness to enter into dialogue with him alone, rather than managing the destiny of the entire cosmos and all the mystical worlds beyond it—can be made without injury to the main tenets of this thought.

We Never Were Alone

Man, we may learn conclusively in the not-too-distant future, may no longer be regarded as the purpose of creation. But his actions and his destiny are of significance to a Creator who, in His infinity, is not bewildered by numbers. While he must begin to feel a new and pervasive collective humility in the face of the immeasurable richness and variety of God’s world, the psychological climate of such wonder and humility need not lead him to conclude that God is unaware of his existence.

The discovery of fellow intelligent creatures elsewhere in the universe, if indeed they do exist, will deepen and broaden our appreciation of the mysteries of the Creator and His creations. Man will be humble, but not humiliated. With renewed fervor he will be able to turn to God, whose infinite goodness and Providence are not limited to, but certainly include, one small planet on the fringes of the Milky Way.

We may learn that, as rational, sentient, and self-conscious creatures, “we are not alone.” But then again, we have never felt before nor need we feel today or in the future that we are alone. “For Thou art with me.”

NOTES TO CHAPTER V

1. McGraw-Hill Book Company (New York: 1964).
2. "Science Pauses," *Fortune* (May, 1965).
3. "It is reasonable to say," writes astronomer Otto Struve (*Life in Other Worlds*, A Symposium sponsored by Joseph E. Seagram & Sons, 1961, p. 32), "that the number of stars in the observable part of the universe approximates the number of grains of sand on all the beaches of the earth." A remarkable coincidence of an astronomer's conclusions with Biblical usage!
4. Harlow Shapley, *The View from a Distant Star*, Basic Books, Inc. (New York: 1963).
5. Stephen B. Dole, *Habitable Planets for Man*, Blaisdell Publishing Company (New York: 1964).
6. Otto Struve, *The Universe*, Massachusetts Institute of Technology Press (Cambridge: 1962), p. 158.
7. Alastair G. W. Cameron, *Interstellar Communication* W. A. Benjamin, Inc. (New York: 1963).
8. Fred Hoyle, *Of Men and Galaxies*, University of Washington, (Seattle: 1964).
9. Quoted by Sullivan, *op. cit.*, p. 75.
10. "Challenges to Biology" in *The Challenges of Space*, ed. Hugh Odishaw, University of Chicago Press (Chicago: 1962).
11. Thus, at a symposium of the New York State Medical Society in 1969, Dr. Cyril Ponnampetuma of the exobiology division of NASA reported laboratory experiments simulating the atmosphere of Jupiter. The results suggested that the chemical precursors of animal life have evolved on that planet. The chemical mix was heavy in hydrogen, and an electrical spark led to the production of hydrogen cyanide and cyanogen, precursors of amino acids. With water in the original mixture, the products included the synthesis of polypeptides or long chains of amino acids. This is the mixture presumed to have prevailed on earth (*New York Times*, February 10, 1969).
12. Hoyle, one of the originators of the "steady-state" theory, later recanted. In an article in the British journal, *Nature* (Oct. 9, 1965), he accepts as valid the criticisms of his idea of a steady, infinite universe, although he does not completely accept the "big bang" theory of his opponents. See also his *Galaxies, Nuclei and Quasars* (Harper and Row, 1965).
13. Arthur O. Lovejoy, *The Great Chain of Being*, Harvard University Press (Cambridge: 1936).
14. See Loren Eiseley, *The Immense Journey*, pp. 111-113.
15. Jacques Barzun, *Science: The Glorious Entertainment*, Harper and Row (New York: 1964).
16. *The New York Times*, April 13, 1965.
17. *The New York Times*, July 29, 1965.
18. *The New York Times*, October 26, 1966.
19. *The New York Post*, February 21, 1968.
20. Cf. Martin Gardner, *Fads and Fallacies in the Name of Science*, Dover Publications, Inc. (New York: 1957).
21. H. Sandon, "Cosmic Conversation: A Biologist's View," in the *New Scientist*, March 31, 1966.
22. Eiseley, *op. cit.*, pp. 114-117.
23. *The Collected Letters of R. A. I. Kook* (Hebrew) Vol. I, pp. 105-107.
24. *Kohellet Rabbah*, 7:28.

25. Prof. Harry A. Wolfson, in his *Philo*, maintains that Philo notwithstanding, the Jewish tradition holds that simultaneously with our world, God created thousands of other worlds. Wolfson further asserts that, if not for other complications, Saadia, too, would accept the plurality of worlds. See *supra*, Chapter IV, n. 25.

26. Cf. Abraham Lifschutz, "*Ha-adam Ba-mahshavah ha-Yisraelit ha-Datit*," in *Sinai*, Vol. LV, No. 1-2 (Nisan-Iyyar 1964), pp. 56-64.

27. Marvin Fox, "Religion and Human Nature in the Philosophy of David Hume," in *Process and Divinity: The Hartshorne Festschrift*, Illinois Freeman Open Court Publishing Company (Illinois: 1964).

28. For a report on an unorthodox view of man's uniqueness by a contemporary biologist, see Marjorie Green, "Portmann's Thought," in *Commentary* (November 1965) and, in the same issue, "The Special Position of Man," by Adolf Portmann himself.

29. Viktor E. Frankl, *Man's Search for Meaning: An Introduction to Logotherapy*, Washington Square Press (New York: 1964), p. 154.

30. Alfred North Whitehead, *The Function of Reason*, Princeton University Press (1929).

31. The formulation of the first of Maimonides' Thirteen Principles as found in the Prayer Book, "I firmly believe that the Creator . . . creates and rules over all created beings, וְהוּא לְבַדּוֹ, and that *He alone* has made, does make, and ever will make things," would appear to contradict our assertion. However, two things must be borne in mind. First, I am referring to the absence of any disturbance in the rest of the dogmatic structure of Judaism were God's exclusive creatorship denied. Second, the version of the First Principle that appears in the Prayer Book is not authentic. It is a condensation of the much fuller original source, in Maimonides' *Commentary on the Mishnah*, Introduction to Chapter X of *Sanhedrin*. There one finds no mention of God as the *exclusive* Creator of all creatures. Similarly, the poetic summation of the Principles in the *Yigdal* does not mention it. Neither is there any reference to it in the third chapter of *Hil. Teshuvah* where Maimonides presents the negatives of the thirteen *ikkarim*, i.e., the classification of heretics.

32. *Avot* 3:1.

33. Cf. Nahmanides to Gen. 1:1. R. Hayyim of Volozhin similarly defines the mystical worlds of *beriah* and *yetzirah*, in which God's creative power unfolds, as *yesh me'ayin* and *yesh me'yesh*; cf. *Nefesh ha-Hayyim* 1:13, 2nd gloss. See *infra*, chap. VI.

34. Thus R. Joseph Kimhi, cited by Nahmanides (to Gen. 1:26), explains the plural in the words "Let us make a man in our image, etc." (Gen. 1:26); i.e., here God addresses the earth, indicating the special quality of man as a compound of the strictly physical and spiritual. See *infra*, chap. VI.

35. See the letter mentioned above, n. 23.

36. This may well be the meaning of the Tree of "Knowledge" from the fruit of which, as the serpent told Eve, "You will be like God *knowing* good and evil." In the Hebrew the word may mean not only knowing, in the passive cognitive sense, but also informing or establishing knowledge in the active sense. This is the meaning Maimonides (*Guide*, 3:24) gives to the verse in Gen. 22:12—*ki ata yadati*, "for now have I made known," etc. This answers the question posed by Maimonides in *Guide* 1:2. The transgression of Adam, therefore, lay in his usurping the divine prerogative of setting the moral absolutes.

37. See the thoughtful analysis of the Cain and Abel story by Israel Eldad in his *Hegyonot Ha-mikra*. Also see *infra*, chap. VI.

38. Reported in detail in *Christianity Today*, June 20, 1965.

39. Israel I. Efros, *Ancient Jewish Philosophy*, Wayne University (Detroit: 1964).

40. The Sefirot, or divine attributes, thus not only reveal the "light of the *En Sof*," but also conceal Him; i.e., God is knowable only through His actions, but the Essence of God transcends His revelations and is, in fact, eternally concealed from man by the very attributes by means of which God turns outward and encounters man (end, Introduction to *Tikkunei Zohar*). R. Hayyim of Volozhin maintains that the term *En Sof* (Infinite) is not meant to describe God in His absoluteness—for this Essence is, as said, unnameable. It refers, rather, to the inability of man ever to exhaust his contemplation of this Essence which he can only assert, never describe.

41. *Megillah* 31a.

42. In his Foreword to *The Challenges of Space*, mentioned above.

43. *Nefesh ha-Hayyim*, Part II, chap. 2.

44. See his *Likkutei Amarim*, chap. II, p. 160.

THE WORTH OF THE WORLD

By ten divine utterances was the world created.

Why does the Torah indicate this? Surely the world could have been created by one divine utterance!

It comes to tell us that God will exact severe penalty from the wicked who destroy the world which was created by no less than ten utterances, and that He will grant rich reward to the righteous who maintain the world which was created by ten utterances.

(from the Ethics of the Fathers, Chapter I, Mishnah 1)

CHAPTER VI

ECOLOGY IN JEWISH LAW AND THEOLOGY

THE NEW AWARENESS

The unprecedented growth of science and technology which has become one of the chief characteristics of Western civilization, is today the subject of profound and trenchant criticism. The very success of technology threatens to become its undoing. Students of ecology now alarm us to the dangers that an unrestrained technology pose for the delicate balance of nature on which the survival of the biosphere depends. Ever since the publication of Rachel Carson's *The Silent Spring*, the public has become more and more concerned about the possible consequences of man's unthinking interference in and disruption of the natural processes which make life possible on earth. Polluted air, dirty water, littered landscape, an environment contaminated with impurities from radioactive strontium to waste detergents—all of these place in jeopardy not only the quality of life, but the very survival of many or all species, including the human. Sheer necessity has caused ecology to emerge from its ivory tower of pure science to pronounce a great moral imperative incumbent upon all mankind—to curb its arrogant and mindless devastation of nature.

The case for the ecological movement is obvious and beyond dispute. One point, of the many cogent ones made in the growing literature on the subject, is worth repeating here. René Dubos has reminded us that we still know precious little about pollution. Seventy percent of all the precipitate

contaminants in urban air are still unidentified and, twenty to thirty years hence, those who are today below the age of three will undoubtedly show varying signs of chronic and permanent malfunction. Man is clever enough to conquer nature—and stupid enough to wreck it and thereby destroy himself.

The Theologians' Masochism

Unfortunately, the ecology issue has itself inspired a new pollution problem—a fall-out of silliness in the theological environment. It has now become almost a dogma of the avant-garde cognoscenti, who only a short while ago were telling us that the Bible is an impediment to the search for knowledge and the advancement of science, that the cultural provenance of man's technological rapaciousness and extravagant exploitation of nature is the Biblical mandate to man to "subdue" the earth. Ecclesiastical endorsement has been granted to this accusation, in an altogether predictable theological conference on the subject. Under the crisp title of a symposium on "The Theology of Survival," a group of Protestant clergymen met at the School of Theology in Claremont, California, and "virtually all of the scholars agreed that the traditional Christian attitude toward nature had given sanction to exploitation of the environment by science and technology and thus contributed to air and water pollution, overpopulation, and other ecological threats."¹ In truth, such public theological self-flagellation should occasion no surprise. After experiencing the convulsions of Radical Theology in the 1960's and the attempt to write the obituary for the Deity and debunk His best seller, there is nothing particularly startling about His deputies and interpreters asserting in the 1970's that religion (and in this context "Christianity" is intended to be synonymous with Judaism, since the culprit is identified as the Bible and the "Judaean-Christian tradition") is responsible for our dirty planet, and that the solution requires another one of those "major modifications" of current religious values. Such exhibitions of moral masochism have, regretfully, become commonplace.

Were it not for the uncritical acceptance granted to these

ideas, and the prominence of the organs in which they were disseminated (from *Science* to *The New York Times*), it would have been best to treat these comments with studied neglect. However, since they were given wide currency, they may at least serve as a convenient excuse to examine the sources of the Jewish tradition—Biblical and midrashic, halakhic and theological—to discover whether these sources possess any resonance for the ecological values that will in all likelihood, and with justification, become part of the culture of Western man.

THE BIBLICAL PERSPECTIVE

The starting point for a religious consideration of man's relations with his natural environment is the divine blessing to man in Genesis 1:28: "...be fruitful and multiply and replenish the earth and subdue it; and have dominion over the fish of the sea and over the fowl of the air and over every creeping thing that creepeth on the earth." This is the passage that, it is asserted, is the sanction for the excesses of science and technology, the new ecological villains. "And subdue it" is proclaimed by theologians as the source of man's insensitivity and brutality to the subhuman world, as "dominion . . . over the fowl of the air" is equated with the right to foul the air.

The Limitations of Subdual

It does not take much scholarship to recognize the emptiness of this charge against the Bible, particularly as it is interpreted in the Jewish tradition. The Torah's respect for nonhuman nature is evident in the restrictions that follow immediately upon the "subdue" commandment: man is permitted only to *eat* herbs and greens, not to abuse the resources of nature.² Furthermore, this mastery over nature is limited to vegetables for the first ten generations. Vegetarianism yields to carnivorousness only after the Flood when, as a concession, God permits the eating of meat to the sons of Noah. Even then, the right to devour flesh is circumscribed with a number of protective prohibitions, such as the warnings against eating blood and taking human life.³ The laws of *kashrut*, the Biblical and rabbinic dietary rules, preserve the kernel of that primeval

vegetarianism by placing selective restrictions on man's appetite for meat. His right to "subdue" nature is by no means unlimited.

Man and Earth

Man's commanding role in the world brings with it a commensurate responsibility for the natural order. He may rule over nature, not ruin it. Adam is punished for his sin by the diminution of nature's potencies: thorns and thistles, sweat of the brow, enmity between the species, complications in the relations between the sexes, the ultimate victory of earth over man.⁴ The upsetting of the balance of nature, man included, is a curse. Cain, too, is punished by alienation from nature. The blood of his slain brother is soaked up by the earth, corrupting it and disturbing its peace, and the retribution is in kind: "When thou tillest the ground, it shall not henceforth yield unto thee its strength; a fugitive and wanderer shalt thou be in the earth."⁵ Ten generations later the world is filled with "violence" (*hamas*), "for all flesh has corrupted their way on the earth," and, hence, "behold, I will destroy them with the earth."⁶ And in the eschatological vision of Isaiah, the restoration of man to primordial harmony in and with nature is the prophet's most powerful metaphor for the felicity of the Messianic redemption. "And the wolf shall dwell with the lamb . . . and a little child shall lead them. . . . They shall not hurt nor destroy in all My holy mountain."⁷

Biblical concern for the ecological balance in territory from which a large population had been banished because of warfare is evidenced in the following passage in which the Israelites are told of their eventual inheritance of the Land of Canaan from its original inhabitants: "I will not drive them out from before thee in one year, lest the land become desolate, and the beasts of the field multiply against thee. Little by little will I drive them out from before thee, until thou be increased and inherit the land."⁸ We find Biblical legislation to enforce pollution abatement in the commandment to dispose of sewage and waste by burial in the ground, rather than by dumping into streams or littering the countryside.⁹

Perhaps the most powerful expression of the Bible's concern for man's respect for the integrity of nature as the possession of its Creator, rather than his own preserve, is the Sabbath. This institution was never understood by Judaism as solely a matter of rest and refreshment.¹⁰ It pointed primarily to the relationships between man, world, and God. The six workdays were given to man in which to carry out the commission to "subdue" the world, to impose on nature his creative talents. But the seventh day is a Sabbath; man must cease his creative interference in the natural order (the Halakhah's definition of *melakhah* or work), and by this act of renunciation demonstrate his awareness that the earth is the Lord's and that man therefore bears a moral responsibility to give an accounting to its Owner for how he has disposed of it during the days he "subdued" it. The same principle underlies the institutions of the Sabbatical and Jubilee years. The Sages of the Mishnah¹¹ interpreted the words of the Psalmist, "a song for the Sabbath day" (Ps. 92), as "a song for the hereafter, for the day which will be all Sabbath." Thus, for the Rabbis the weekly renunciation of man's role as interloper and manipulator, and his symbolic gesture of regard for nature, was extended into a perpetual Sabbath; hence, a new insight into Jewish eschatology: not a progressively growing technology and rising G.N.P., but a peaceful and mutually respectful coexistence between man and his environment.

The Orders of Creation

This respect for the inviolability of Nature extends not only to Nature as a whole but to its major segments as well. The original identity of species must be protected against artificial distortion and obliteration. This confirmation of the separateness and noninterchangeability of its various parts may be said to lie at the heart of some of the less rationally appreciated Pentateuchal commandments—those prohibiting the mixing of different seeds in a field, of interbreeding diverse species of animals, of wearing garments of mixed wool and linen.¹² Here the Bible demands a symbolic affirmation of nature's original order in defiance of man's manipulative inter-

ference. Perhaps never before have these laws been as meaningful as in our times when the ecology of the entire planet is in such danger, when entire species are threatened with extinction, when man has become capable of "ecocide."

Interestingly, one of the major Biblical sources of the laws forbidding such intermingling of species is immediately preceded by the famous commandment, "Thou shalt love thy neighbor as thyself."¹³ Reverence for the integrity of identity is common to both laws. Respect for the wholeness of a fellow man's autonomy must lead to respect for the wholeness of all the Creator's works, mute nature included. This autonomy of nature is known in rabbinic literature as *sidrei bereshit*, the "orders of creation." The rabbinic attitude to these "orders of creation" is manifest in the following passage:

Our Rabbis taught: once there was a man whose wife died and left him with a nursing child. He had no money to pay a wet-nurse. A miracle happened, and he developed two breasts like a woman and he nursed his child. Said R. Joseph: "Come and see, how great is this man that such a miracle should have been performed for him." Said Abaye to him: "On the contrary, how lowly is this man that for his sake the orders of creation should have been altered."¹⁴

The "orders of creation" are the manifestations of the act of creation, the juridical warrant for divine ownership of the universe, and whosoever interferes with them is "a lowly person."

Thou Shalt Not Destroy

The Biblical norm which most directly addresses itself to the ecological situation is that known as *bal tashhit*, "thou shalt not destroy." The passage reads:

When thou shalt besiege a city a long time, in making war against it to take it, thou shalt not destroy the trees thereof by wielding an axe against them; for thou

mayest eat of them, but thou shalt not cut them down; for is the tree of the field man that it should be besieged of thee? Only the trees of which thou knowest that they are not trees for food, them thou mayest destroy and cut down, that thou mayest build bulwarks against the city that maketh war with thee, until it fall.¹⁵

These two verses are not altogether clear and admit of a variety of interpretations; we shall return to them shortly in elaborating the Halakhah of *bal tashhit*. But this much is obvious, that the Torah forbids wanton destruction. Vandalism against nature entails the violation of a Biblical prohibition. According to one medieval authority, the purpose of the commandment is to train man to love the good by abstaining from all destructiveness. "For this is the way of the pious . . . they love peace, are happy when they can do good to others and bring them close to Torah, and will not cause even a grain of mustard to be lost from the world. . . ."¹⁶ A more modern author provides a somewhat more metaphysical explanation: the fruit tree was created to prolong man's life, and this purpose may therefore not be subverted by using the tree to make war and destroy life.¹⁷ Those few cases in Scriptural history in which this norm was violated, are special cases. Thus, when Hezekiah stopped all the fountains in Jerusalem in the war against Sennacherib,¹⁸ which Sifre regards as a violation of the Biblical commandment equal to chopping down a fruit tree, he was taken to task for it by the Talmudic Sages.¹⁹ In another incident, Elisha counseled such a scorched earth policy;²⁰ Maimonides considered this a temporary suspension of the law for emergency purposes (*horaat shaah*), a tactic permitted to a prophet, but an act which is not normative.²¹

The Talmudic and midrashic traditions continue this implicit assumption of man's obligation to, and responsibility for, nature's integrity: Nothing that the Lord created in the world was superfluous or in vain;²² hence, all must be sustained. An aggadah, often repeated in the literature, says that God created the world by looking into the Torah as an architect into a

blue print. Creation, the Rabbis were saying, is contingent upon the Torah or, the survival of the world depends upon human acceptance of moral responsibility.

THE HALAKHIC PERSPECTIVE

The Commandment of Bal Tashhit

Let us now return to the commandment of *bal tashhit* to see how the Biblical passage is interpreted in the halakhic tradition. At first blush, it would seem that the Biblical prohibition covers only acts of vandalism performed during wartime. The Halakhah, however, considers the law to cover all situations, in peacetime as well as in war;²³ apparently, the Bible merely formulated the principle in terms of a situation in which such vandalism is most likely to occur and in a most blatant fashion. Indeed, while Maimonides forbids the destruction of fruit trees for use in warfare,²⁴ other authorities such as Rashi²⁵ and Nahmanides²⁶ specifically exempt the use of fruit trees, for such purposes as bulwarks, from the prohibition; what the Torah proscribed is not the use of trees to win a battle, which may often be a matter of life and death, but the wanton devastation of embattled areas so as to render them useless to the enemy should he win, e.g., a "scorched earth" policy.²⁷

The specific mention in the Biblical passage of destroying by "wielding an axe" is not taken by the Halakhah as the exclusive means of destruction. Any form of despoliation is forbidden by Biblical law, even diverting the irrigation without which the tree will wither and die.²⁸ Again, it was assumed that the Torah was enunciating a general principle in the form of a specific and extreme case.

Similarly, the mention of "fruit trees" was expanded to include almost everything else: "And not only trees, but whoever breaks vessels, tears clothing, wrecks that which is built up, stops fountains, or wastes food in a destructive manner, transgresses the commandment of *bal tashhit* ('thou shalt not destroy'), but his punishment is only flogging by rabbinic edict."²⁹ Likewise, is it forbidden to kill an animal needlessly or

to offer exposed water (presumed to be polluted or poisoned) to livestock.³⁰

Nature of the Commandment

In order to understand the relevance of the Halakhah on *bal tashhit* to the problem of ecology, it is important to test certain underlying assumptions of the halakhic conception. First, then, it should be pointed out that there is present no indication of any fetishistic attitude, any worship of natural objects for and of themselves. This is obvious from the passage just cited, wherein other objects, including artifacts, are covered in the prohibition. Furthermore, nonfruit-bearing trees are exempt from the law of *bal tashhit*, as are fruit trees that have aged and whose crop is not worth the value of the trees as lumber.³¹ Also, fruit trees of inferior quality growing amidst and damaging to those that are better and more expensive, may be up-rooted.³²

What must be determined is whether the Halakhah here is concerned only with commercial values, perhaps based upon an economy of scarcity, and possibly, even more exclusively, on property rights; or whether there are other considerations beyond the pecuniary that, although they are formulated in characteristic halakhic fashion *sui generis* and without reference to any external values, nevertheless may point indirectly to ecological concerns.

It is at once obvious that commercial values do play a central role in the law. Thus, the fruit tree may be destroyed if the value of the crop is less than its value as lumber, as mentioned above, or if the place of the tree is needed to build a house thereon.³³ Such permission is not granted, according to the later authorities, for reasons of esthetics or convenience, such as landscaping.³⁴ However, the economic interest is not overriding; it must yield to considerations of health, so that in case of illness and when no other means are available to obtain heat, fruit trees may be cut down and used for firewood.³⁵ Even when the criterion is a commercial one, it is clear that it is the waste of an object of economic value per se that the Halakhah considers unlawful; it is not concerned with property rights, nor does it

seek, in these instances, to protect private property. Thus, in a complicated case concerning a Levirate marriage, the Mishnah counsels one to act so that he does not needlessly disqualify a woman from later marrying a priest.³⁶ The Gemara quotes R. Joseph who avers that Rabbi, redactor of the Mishnah, thereby intended a broader principle which R. Joseph phrases as: "One should not spill water out of his pool at a time when others need it," i.e., one should never spoil an object or an opportunity even where the gain or loss refers completely to another individual, and not to himself.³⁷ We previously quoted the author of the *Hinnukh* who explains all of *bal tashhit* as teaching the ideal of social utility of the world, rather than of purely private economic interest: the pious will not suffer the loss of a single seed "in the world," whereas the wicked rejoice "at the destruction of the world."³⁸ In his summary of the laws included in the rubric of *bal tashhit*, the author mentions that it certainly is proper to cut down a fruit tree if it causes damage to the fields of others.³⁹

The Hazon Ish

A most cogent point is made, in this respect, by the late R. Abraham Isaiah Karelitz, of blessed memory, author of *Hazon Ish*. Maimonides, codifying the law of the Sifre,⁴⁰ decides that *bal tashhit* includes the prohibition to divert an irrigation ditch which waters a fruit tree. What, however, if the tree were watered manually, by filling a pail with water and carrying it to the tree: is the passive failure to do so considered a breach of *bal tashhit*? *Hazon Ish* decides that it is not in violation of the law, because all sources indicate that the commandment of *bal tashhit* is directed not at the owner of the tree or object, but at all Israelites. Were the law addressed to individual proprietors, one could then demand of them that they continue to irrigate their trees in any manner necessary, and the failure to do so would constitute a transgression. However, the law is addressed to all Israel, and hence it is negative in nature, prohibiting an outright act of vandalism, such as diverting a stream from a tree, but not making it incumbent upon one actively to sustain every tree.⁴¹ What we may derive from this

is that the prohibition is not essentially a financial law dealing with property (*mammon*), but religious or ritual law (*issur*) which happens to deal with the avoidance of vandalism against objects of economic worth. As such, *bal tashhit* is based on a religio-moral principle that is far broader than a prudential commercial rule per se, and its wider applications may well be said to include ecological considerations.

Support for this interpretation may be found in the decision codified by R. Shneur Zalman of Ladi, applying the law of *bal tashhit* even to ownerless property (*hefker*). His reasoning is that if the Torah disallowed needless destruction of property of an enemy in war time, it certainly forbids destruction of ownerless property.⁴² Here again we find that we are dealing with a religio-moral injunction concerning economic value (not property), rather than an economic law which has religious sanction.

That this is so may be seen, too, from the special seriousness with which the Talmud approaches the subject, and from aggadic and quasi-halakhic sources dealing with it. Thus, the Talmud relates that R. Ḥanina attributed the untimely death of his son to the latter's cutting down a fruit tree prematurely.⁴³ The Rabbis hesitated to pay a sick call to a dying scholar who, for medicinal purposes, kept a goat in his house in order to drink its milk; the goat despoils the grazing land and hence is to be banished from such pastures.⁴⁴ The Tabernacle was built of acacia wood⁴⁵ to teach man that if he wishes to build a house for himself he should not despoil fruit trees for this purpose.⁴⁶ Even though one is halakhically permitted to destroy a fruit tree if he wishes to build his home on its place,⁴⁷ nevertheless he should refrain from doing so.⁴⁸

THE THEOLOGICAL PERSPECTIVE

In moving now from the Halakhah, with its specific prescriptions focused upon man's empirical conduct, to the larger, theological formulations of man's relationship with nature, it is best perhaps to begin with a ludicrously extreme view taken by a professor of history in an article in *Science*,⁴⁹ where he avers that the verse in Genesis ("subdue it"), coupled with the

“Judaean-Christian” rejection of pagan beliefs in the divinity of nature, has made possible Western man’s exploitation of nature “in a mood of indifference to the feelings (*sic!*) of natural objects.” We shall be saved only by a return to the deification of nature and the acceptance of the theology of ancient paganism. A rather extravagant price to pay for correcting a fallible professor’s misbegotten exegesis and his faulty interpretation of the Biblical view of man in relation to his environment!

The Holiness of Nature

Unquestionably, Judaism, in contradistinction to paganism, refuses to ascribe the quality of holiness to nature and natural objects as such. Nature is profane. Harvey Cox was correct when, in his *The Secular City*, he wrote of the “disenchantment with nature” as one of the major contributions of Biblical faith. The God of the Bible is beyond, not within, nature: “In the beginning God created heaven and earth.”

Hasidic Immanentism

Nevertheless, upon further examination one does notice the development of a view affirming the holiness of nature in a certain period of the history of Jewish thought—but in a form and a significance utterly different from that of pagan thought. Beshtian Hasidism emphasized the immanence of God in the world. The dictum *melo kol ha-aretz kevodo* (“the world is full of His glory”⁵⁰) and the Zoharian phrase *let atar panuy mineih* (“there is no place empty of Him”) were adopted as major and most meaningful expressions of Hasidic immanentism. The spirit of the Creator is present in the creation. Hasidism continued the Kabbalistic tradition of viewing the world as a symbol of God. Nature was considered a “garment” of the Shekhinah. Without the immanence of God in nature and all its parts, even the most lowly, all of creation would return to primordial chaos; it would simply cease to exist. The Holy One is *memalé kol almin* (“fills all the worlds”), according to the formula of the Zohar, to greater or lesser extent, depending upon the level of each object in the

chain of being. R. Isaac Luria taught that "even the most mute objects, such as stones and dust and water, possess *nefesh* (the lowest soul or spiritual dimension) and spiritual vitality."⁵¹

From the above one might be led to conclude, although the masters of Hasidism never did so explicitly, that Hasidism attributes to nature the dimension of holiness. Moreover, once the door has been opened to the theory that nature possesses inherent sanctity, the next step follows: all of nature is uniformly holy, thus denying the pluralistic judgment of Halakhah as to the hierarchy of holiness in the world—ten levels of holiness, one higher than the other.⁵² Of course, there is a fundamental difference between the halakhic category of *kedushah* as applied to places (the Land of Israel, Jerusalem, the Temple courtyard, the inner sanctum, etc.), and the immanentistic ascription of holiness to natural places and objects. For the Halakhah, such holiness is not innate, a quality of the object by virtue of its God-withinness, but superimposed on it by an external act of sanctification and, therefore, capable of de-sacration. But the immanentistic view of the holiness of nature, tending towards a sense of uniform sanctity, inclines towards a displacement of the hierarchical structure as conceived by the Halakhah. The danger inherent in such a theology is obvious: the denial of the Halakhah which is based on a value pluralism (ten levels of holiness, sacred and profane, pure and impure, permitted and forbidden, guilty and innocent, etc.) and the homogenization of all value distinctions in an antinomian monism. And from here it is only one short step to pantheism—and the common denominator of pantheism and paganism is the ascription of divinity to nature.

As we mentioned above, Hasidic thinkers never came to such strange and perilous conclusions which would have placed the movement outside the pale of Judaism. There were some Maskilim, Ephraim Deinard⁵³ among them, who did indeed categorize Hasidism as pantheistic, but there is no doubt that their conclusions are absurd and the result of dilettantism instead of scholarship. The emphasis on the closeness of God to man, His immanence, and hence the feeling of respect for

the natural order and the readiness to discover in it the opportunities for *devekut*—these Hasidic principles do not at all require or imply at bottom a Spinozistic pantheism. At most, one can say that, as opposed to classical theism, Hasidism may be characterized as *panentheistic*, to use Professor Charles Hartshorne's felicitous term. God includes the world within Himself, but is not limited to or by it. He is immanent, but also remains transcendent to it. "He is the place of the world, but the world is not His place."⁵⁴

The Critique of Hasidism

The task of exposing the latent antinomianism in Hasidic immanentism was undertaken with greatest thoroughness by R. Hayyim of Volozhin, the chief theoretician of the Mitnagdim. In Part III of his *Nefesh ha-Hayyim*, R. Hayyim points to a number of antihalakhic practices that had begun to appear in the early Hasidic movement. As a Kabbalist himself—the school of the Gaon of Vilna was firmly anchored in the Jewish mystical tradition—R. Hayyim could not very well deny the omnipresence of God, indeed, His immanence, as implied in the Zohar's *let atar panuy mineih*. But R. Hayyim showed that, taken to its logical conclusion and adopted in practice, this view leads to a denial of all existence and a thorough acosmism. Therefore, R. Hayyim accepts this acosmic, monistic immanentism as being true from God's point of view ("from His side") alone. Man, however, from the point of view of his religious experience and obligation and his own existential condition ("from our side"), must accept God and world as separate from each other. In effect, this is a form of "kicking radical immanentism upstairs" and, for all practical purposes, embracing a nonimmanentistic view which posits an abyss between God and world and thus leaves the latter totally devoid of holiness. Nature is thus left completely profane.⁵⁵

Kinship with Nature

In truth, R. Hayyim was logically and philosophically correct in anticipating apprehensively the antinomian results of Hasidic

immanentism. History, however, as so often happens, marches along in majestic disdain of logic and philosophy. Not only did Ḥasidism remain within mainstream Halakhic Judaism—this might at least be partially attributed, paradoxically, to R. Ḥayyim's vigorous criticism—but the signs of incipient antinomianism R. Ḥayyim noticed were insignificant and infrequent and, for the most, were folk aberrations which did not receive the approval of the leaders of the movement.⁵⁶ Despite these early symptoms, Ḥasidism kept itself in check, restrained its latent potential antinomianism from playing itself out to its logical bitter end, remained within the boundaries of traditional Judaism, and never concluded that nature is holy. Nevertheless, the awareness of *kirvat Elohim* (the closeness of God) predisposed it to searching within the natural order for an undeveloped seed of holiness, for the spirit of God deeply hidden and concealed and rich in spiritual possibilities once it is revealed. Thus, R. Naḥman of Bratzlav declared that the world is full of idols and abominations; it is utterly and disgustingly profane. Yet when man begins to ask, *ayeh mekom kevodo?* ("Where is the place of His glory?"—from the *Kedushah* prayer of the Sabbath *Musaf* service), when man quests for God in this impure and corrupt world, he may yet find Him and succeed in exposing the holiness so very deeply imbedded within the world, thus returning this holiness to its supernal source.⁵⁷ The world may not be holy, but it contains the possibilities of holiness and God-consciousness.

Hence, while Ḥasidism does not directly declare nature as holy, it finds in it sufficient potentialities for the sacred to allow for a greater respect for and closeness to the natural world, while the Mitnagdic dualism ("from His side"/"from our side") so completely desacralizes nature as to leave it completely neutral and irrelevant religiously, to be viewed totally objectively and without any feeling of relationship whatever. The sense of human kinship with nature is evident in a saying of the Baal Shem Tov, founder of Ḥasidism, according to a disciples' notes: "A man should consider himself as a worm, and all other small animals should be regarded

as his friends in the world, for all of them (i.e., man and the other species) are all created."⁵⁸ For Ḥasidism, which is immanentistic and panentheistic, man has a kinship with other created beings, a symbiotic relationship with nature, and hence should maintain a sense of respect, if not reverence, for the natural world which is infused with the presence of God. The Mitnagdic view, emphasizing divine transcendence, leaves no place for such feelings, and conceives the Man-Nature relation as completely one of subject-to-object, thus allowing for the exploitation of nature by science and technology and—were it not for the halakhic restraints which issue from revelation, and not from theology—the ecological abuse of the natural world as well.

The Limits

Taking the Ḥasidic and Mitnagdic positions as the two poles defining the limits of the Jewish attitude towards man's relationship with his natural environment, we may conclude that Judaism avoided either extreme—the deification and worship of nature on the one hand, and contempt for the world on the other. Ḥasidism taught respect, possibly even awe, for nature, as the habitat of the Shekhinah, but it fell short of ascribing to it the inherent quality of sanctity. Rabbinic Judaism, in the Mitnagdic version, completely and unequivocally denied to nature the dimension of holiness, but conceded that from the divine perspective of reality ("from His side") there cannot be conceived a world not utterly suffused with the Presence. This theological tension is resolved, or at least committed to practice, with the aid of the Halakhah: Nature is not to be considered holy, but neither is one permitted to act ruthlessly towards it, needlessly to ravage it and disturb its integrity.

Man as Creator

Within this framework, it is important further to elaborate on the relation of man to nature in order to provide the value foundation for the moral imperatives that issue from ecology. "And subdue it" certainly implies a mandate to man

to exercise his technological talents and genius in the upbuilding of the world and the exploitation of nature's resources. From the days of R. Saadia Gaon and R. Sabbatai Donnola, a tradition of interpretation has understood the Biblical term "the image of God" to include, if not primarily to signify, man's capacity for creativity: just as the Creator is creative, so has His imaging creation been endowed with the same propensity. This creative urge is man's glory, his very God-likeness. In a remarkable passage we read that Turnus Rufus, a pagan Roman general, asked R. Akiva which was more beautiful (or useful): the works of God or the works of man. Holding some stalks of grain in one hand, and loaves of bread in the other, R. Akiva showed the astounded pagan that the products of technology are more suited for man than the results of the natural process alone. So did R. Akiva proceed to explain the commandment of circumcision; both world and man were created incomplete, God having left it to man to perfect both his environment and his body. Similarly, the commandments, in general, were given in order that man thereby purify his character, that he attain spiritual perfection.⁵⁹ Man, the created creator, must, in imitation of his Maker, apply his creative abilities to all life: his natural environment, his body, his soul.

When R. Shelomoh Eger, a distinguished Talmudist, became a Hasid, he was asked what he learned from R. Menahem Mendel of Kotzk after his first visit. He answered that the first thing he learned in Kotzk was, "In the beginning God created." But did a renowned scholar have to travel to a Hasidic Rebbe to learn the first verse in the Bible? He answered: "I learned that God created only the beginning; everything else is up to man."

The Dangers

However, this doctrine which teaches man's discontinuity with and superiority to the rest of the natural order, must not be misconstrued as a sanction for man to despoil the world. First, while he is beyond the merely natural, he also participates in it; he is an intersection of the natural and the di-

vine (or supernatural). The plurals in the verse, "And God said, Let us make man in our image," are explained by R. Joseph Kimḥi as addressed by God to the earth, or nature. Man remains inextricably tied to nature even while he is urged to transcend it. Man is a creature, and the denial of his creatureliness turns his creative powers to satanic and destructive ends. Second, the very nature of the concept of the imagehood of man implies the warning that he must never overreach in arrogance. He may build, change, produce, create, but he does not hold title to the world, he is not the "King of the world," an appellation reserved for the Deity, because the original all-inclusive creation was exclusively that of God, and mortal man has no part in it. His subordinate role in the cosmic scheme means that nature was given to him to enjoy but not to ruin—a concept reenforced by the law that before deriving any benefit or pleasure from the natural world, such as eating or drinking, one must recite a blessing to the "King of the world": an acknowledgment that it is God, not man, who holds ultimate title to the universe. Hence, without this blessing-acknowledgment, it is as if one stole from God.⁶⁰

That man's role as co-creator with God must not be exaggerated we learn from the following Talmudic passage: "The Rabbis taught: man was created on the eve of the Sabbath. Why? So that the Sadducees (i.e., heretics) should not say that God had a partner in the act of creation of the world."⁶¹ This statement does not contradict that of R. Akiva who declared man's actions more beautiful, or suitable, than those of God, hence emphasizing the religious sanction of man's creative office. Man remains a partner of God in the ongoing creative process. However, here we must distinguish between two Hebrew synonyms for creation: *beriah* and *yetzirah*. The former refers to *creatio ex nihilo* and hence can only be used of God. The latter describes creation out of some preexistent substance, and hence may be used both of God (after the initial act of genesis) and man.⁶² God has no "partners" in the one-time act of *beriah* with which He called the universe into being, and the world is, in an ultimate sense, exclusively His. He does invite man to join Him, as a co-creator, in the ongoing process of *yetzirah*. Hence,

man receives from God the commission to "subdue" nature by means of his *yetzirah*-functions; but, because he is incapable of *beriah*, man remains responsible to the Creator for how he has disposed of the world.

A Halakhic Parable

The relations between God the Master, man the *yetzirah*-creator, and nature may be clarified further by referring to the Halakhah concerning the relationships between owner, material, and artisan. The Mishnah⁶³ discusses the case of a man (owner) who gave some material to an artisan to fashion it. The artisan, instead of repairing, spoiled the object. The law is that the artisan must pay the amount of the damages to the owner. The question then arises in the Gemara: What is this object which the owner gave over to the artisan, and the damages for which the latter must compensate the owner? Clearly, if it was a finished vessel, and the artisan broke it, the latter must pay the difference in value. But if the owner gave raw material to the worker, asking that he fashion it into a complete vessel, and the artisan did so, but then broke the very vessel he made, is the artisan obligated, in such a case, too, to compensate the owner for the difference in value between a perfect vessel and a broken one, or is he free of obligation since the broken vessel is no less in value than the raw material with which he began? The question was in controversy amongst both Tannaim and Amoraim. Some held that *uman koneh bi'shevah kelim*, that the artisan has a monetary right in the vessel by virtue of the improvement he effected in it in transforming it from, for instance, mere planks into a table. If the table belongs, then, to the artisan, he cannot be held responsible to pay the owner of the planks for damages to that table if he should later break it. Others disagree: the improvement in the material is the property of the original owner, and if the artisan later destroyed the completed object, he injured the owner and must compensate him. Most authorities⁶⁴ decide the law in favor of the latter opinion: it is the original owner of the raw material who has proprietary rights in the completed artifact, not the artisan who invested his fabricative talents. The explanation for the artisan's legal

responsibility for the finished product is contained in a Tannaitic source: The artisan is to be considered a *shomer sa-khar* or paid trustee for the article he fashioned, and which belongs to the original owner, and as such he must pay for the object if he damaged it.⁶⁵

What we learn from this, then, is that the artisan is paid by the owner for two functions: for improving the material by fashioning a vessel out of it, and for watching over and protecting that vessel once it is completed. This artifact which he created with his own hands, over which he labored with the sweat of his brow, into which he put his remarkable talents, this vessel must now be guarded by him for the owner from any damage it sustains in the course of his trusteeship over it. This is so because, the Halakhah decides, the artisan has no proprietary right in the article he created. It simply does not belong to him.

Let us now project this specific case onto the cosmic scene. God is the Owner, man the artisan, and the raw material is all the wealth of this world: nature, life, culture, society, intellect, family. Man was charged with applying to them his *yetzirah*-creative talents. He was commissioned to improve the world, build it up, transform it, "subdue" it. If he does so, he is "paid" for his labors. But man never has title over his own creations, he has no mastery over the world. Despite his investment of labor and talent, the world, even as perfected by him, belongs to the original Owner. No matter how extensive and ingenious man's scientific and technological achievements in the transformation, conquest, and improvement of nature, he cannot displace the rightful Owner who provided the material in the first place. And not only does man not have proprietorship over raw nature, but he is not even the absolute master of his own creations, the results of his magnificent *yetzirah*. He may not undo what he himself did, for once having done it, it belongs to the Owner and not to the artisan. Man must never entertain the notion that because he labored over his creations, he has the right to destroy them, to repeal his creativity.⁶⁶ He remains a paid trustee over his very own products and must guard them and watch over them with the greatest care.

Man the *yetzirah*-creator, according to the teaching of Halakhic Judaism, is responsible to God the *beriah*-Creator not only for the raw material of the natural world into which he was placed, but is responsible as well for protecting and enhancing the civilization which he himself created. "Subdue it" is not only not an invitation to ecological irresponsibility; it is a charge to assume additional moral responsibility, not only for the natural world as such, but even for the man-made culture and civilization which we found when we were born into this world.

CONCLUSION

The charge that the despoliation of our natural environment has received its sanction in the Western world in the Bible and the Biblical tradition is thus seen, at least from the perspective of Judaism, to be groundless. To appeal to contemporary man to revert, in this twentieth century, to a pagan-like nature worship in order to restrain technology from further encroachment and devastation of the resources of nature, is a piece of atavistic nonsense.

Judaism—exegetically, halakhically, and theologically—possesses the values on which an ecological morality may be grounded.

Perhaps the most succinct summary of what we have said concerning the role of Man and Nature before God is given early in the Biblical narrative where we are told of God placing Adam in the Garden of Eden—which, from its description in Scripture, was a model of ecological health. "And the Lord God took the man and put him into the Garden of Eden to work it and watch over it."⁶⁷ The undefiled world was given over to man "to work it," to apply to it his creative resources in order that it yield up to him its riches. But alongside the mandate to work and subdue it, he was appointed its watchman: to guard over it, to keep it safe, to protect it even from his own rapaciousness and greed. Man is not only an *oved*, a worker and fabricator, he is also a *shomer*, a trustee who, according to the Halakhah, is obligated to keep the world whole for its true Owner, and is responsible to return it in no worse condition than he found it.⁶⁸

NOTES TO CHAPTER VI

1. *The New York Times*, May 1, 1970.
2. Gen. 1:29: "And God said: 'Behold, I have given you every herb yielding seed, which is upon the earth, and every tree in which is the fruit of a tree yielding seed—to you shall it be for food.'"
3. *Ibid.*, 9:2–6.
4. *Ibid.*, 3:15–19.
5. *Ibid.*, 4:12.
6. *Ibid.*, 6:11–12. Alternatively, the last phrase may be translated "I will destroy them from the earth" (see Rashi *ad loc.*), both implying the reciprocity between man and nature.
7. Isa. 11:6–9.
8. Exod. 23:29–30, and see Deut. 7:22 and II Kings 17:25.
9. See Deut. 23:13–15. This has been brought to my attention in a paper by Mr. Eric Freudenstein, since published in *Judaism*, Fall 1970, who also points to air pollution legislation in the early Talmudic period. The Mishnah (*B.B.* 2:8,9) prohibits establishment of a permanent threshing floor within fifty cubits of the city limits, because the chaff borne by the wind may jeopardize the health of the city dwellers. Similarly, animal carcasses may not be deposited, and tanneries and cemeteries not set up, within the same distance of the city.
10. For illustrations of the Halakhah's insights into the nature of Sabbath rest, see Chapter VII; on the Kabbalistic conception of the Sabbath, see *supra*, Chapter II.
11. *Tamid*, end.
12. Lev. 19:19. The verse begins with the admonition, "Ye shall keep *hukotai*, My laws," upon which the Talmud (*Kid.* 39a) comments: "Laws which I have legislated in My world," implying that these laws protect the integrity of the world. See Ramban and Seforno, *ad loc.*, and commentaries of Chief Rabbi Hertz and R. Samson Raphael Hirsch. Of the various forms of forbidden intermingling of species, only two are specifically prohibited to Noahides as well as Israelites—grafting branches of diverse species, and interbreeding livestock. The *kilayim* of garments, seeds, and vineyard are forbidden only to Israelites. *Sanh.* 56b; Maimonides, *Hil. Melakhim* 10:6.
13. Lev. 19:18.
14. *Shabbat* 53b.
15. Deut. 20:19, 20.
16. *Sefer Ha-hinnukh*, No. 529.
17. R. Yaakov Zvi Meklenburg, *Ha-Ketav Ve'ha-Kabbalah* to Deut. 20:19. He interprets the phrase *ki ha-adam etz ha-sadeh*, etc., not as above ("For is the tree of the field man that it should be besieged of thee?"), but as: "For as man, so is the tree of the field when it is besieged of thee," i.e., just as the enemy who has surrendered and is willing to pay tribute must not be destroyed, so the fruit tree which gives you tribute (fruit) must not be cut down.
18. II Chron. 32:2–4,30.
19. *Pes.* 56a. See Rashi *ad loc.*
20. II Kings 3:17–20.
21. Commentary to the Mishnah, Introd. to *Seder Zera'im*.
22. *Shabbat* 77b.
23. *B.B.* 26a; *B.K.* 96b; *Mak.* 22a; Maimonides, *Hil. Melakhim* 6:8.
24. *Loc. cit.*, 9.
25. Commentary to *B.K.* 91b.
26. Commentary on the Torah, to Deut. 20:20; supplement to Commentary, on Maimonides' *Sefer Ha-mitzvot*, Pos. Com. #6.

27. Indeed, Nahmanides (*ibid.*) appears to permit this too, considering it necessary destruction and hence justifiable; the prohibition is limited to unnecessary and pointless devastation.

28. Sifre to Deut. 20:19. Maimonides, *loc. cit.*

29. Maimonides, *loc. cit.*, 10. Apparently this passage implies that destruction of material other than fruit trees entails a rabbinic violation, and so did most commentators read Maimonides. Earlier, however, in his *Sefer ha-Mitzvot*, Maimonides held that other objects were equally included in the Biblical proscription. Others, too, hold that all objects are included in the Biblical commandment; so *SeMaG*, *Sefer Yere'im*, and apparently *Sefer Ha-hinnukh*. *Minhat Hinnukh*, however, reads this passage in Maimonides to mean that *all* objects are covered by the Biblical prohibition, but whereas the destruction of fruit trees takes flogging as a Biblically prescribed penalty, because it is explicit, the ruining of other objects is forbidden by Biblical law, but no punishment declared for it. Such punishment (flogging) is, however, ordained by rabbinic decree.

30. See *Hullin* 7b; *Tos B.K.* 115b, s.v. *ve'lo yashkeh*; *Sh. A. Harav*, *Hil. Shemirat Guf Va'nefesh* 14.

31. *B.K.* 91b; Maimonides, *loc. cit.*

32. *B.K.* 92a; *Tzemaḥ Tzeddek*, cited in *Paḥad Yitzḥak* on *Bal Tashḥit*.

33. *Turei Zahav* to *SH.A.Y.D.* 116:6.

34. *Responsa Ḥavot Yair*, no. 195.

35. *Shabbat* 140b. The reason given is not the usual one, namely, that danger to life cancels out most other obligations. Such a rationale would limit the dispensation to severe illness entailing danger to life. Rather, the Talmud reasons that *bal tashḥit* applies to one's body as well as to one's possessions, indeed more so, and, therefore, it is preferable to harm a tree than one's health. This reasoning is not limited to critical illness.

36. *Yevamot* 44a.

37. *Ibid.* Cf. *SeMaG*, *Neg. Com.* 229.

38. *Supra*, n. 16.

39. *Ibid.* The source for this is *B.B.* 25b. Cf. Maimonides, *loc. cit.* 6:9.

40. *Supra*, n. 28.

41. *Hazon Ish* to Maimonides, *Hil. Melakhim* 6:8.

42. *Sh. A. Harav*, *loc. cit.* However, a problem is posed by the commentary of R. Asher to *Middot* 1:2 (and *Tamid*, chap. I, end) who says that destruction of property countenanced by the law for disciplinary purposes is not in violation of *bal tashḥit* because of the principle that the courts declare such property ownerless (*hefker bet din hefker*). This implies the reverse of the ruling of *Sh. A. Harav*. But see *Responsa Noda Bi'Yehudah*, II, *Y.D.* 10; and appendix to *Responsa Devar Avraham*, Part I.

43. *B.K.* 92b.

44. *B.K.* 89a.

45. *Exod.* 25.

46. *Exod. R.*, 35.

47. *Supra*, n. 33.

48. *Sefer Ḥasidim*, *Tzavaot R. Yehudah He-ḥasid*, 45, and gloss of R. Reuven Margoliot.

49. Cited in *The New York Times* report, *supra*, n. 1.

50. *Isa.* 6:3.

51. Cited in R. Shneur Zalman's *Shaar ha-Yiḥud ve'ha-Emunah*, chap. I. Cf. R. Shneur Zalman's teaching of divine immanence by equating the numerical value of the divine Name *Elohim* to *ha-teva*, nature (*loc. cit.*).

52. *Mishnah, Kelim* 1:6.

53. See my article on the *Metzaref Avodah* in the Professor Joshua Finkel Festschrift to be published by Yeshiva University, N.Y.

54. Gen. R. 68:10.

55. For further discussion on the question of monism-pluralism and the Halakhah, see *supra* chap. II.

56. See, for instance, R. Elimelekh of Lizensk's *Noam Elimelekh, Hanhagot Ha-adam*, no. 20; and cf. Chap. II of my book on the study of *Torah Lishmah* in the works of R. Hayyim of Volozhin, expected to be published in 1971-2 in English by Philipp Feldheim, Inc., New York, and in Hebrew by Mosad Harav Kook, Jerusalem.

57. R. Nahman of Bratzlav, *Likkutei MoHaRaN*, II, 12.

58. In *Tzavaat Ha-RiVaSH*.

59. *M. Tanhuma, Tazria*.

60. *Ber.* 35a.

61. *Sanh.* 38a.

62. See Nahmanides to Gen. 1:1; *supra*, pp. 140-145.

63. *B.K.* 98b.

64. See Maimonides, *Hil. Mekhirah* 10:4.

65. Tosefta, *B.K.*, Chap. II.

66. On man's responsibility for his intellectual achievements, expressed as a law forbidding the scholar to destroy the records of his academic contributions, see R. Naftali Zevi Yehudah Berlin, *Responsa Meshiv Davar*, 1:24.

67. Gen. 2:15.

68. See the commentary of Benno Jacob, *Genesis*, to this verse. I am indebted to the paper of Mr. Eric Freudenstein for this reference.

LEISURE

Said R. Abba the son of Mammal: Were there someone willing to join me, I would permit the doing of work on the intermediate days of the Festivals. Is not the whole reason for the prohibition of work that people might eat, drink, and exercise their minds in the study of Torah? Yet now, they eat, drink—and lapse into decadence.

——THE JERUSALEM TALMUD

A man will come to less harm by overworking than he will by overplaying.

——LORD BEAVERBROOK, *Don't Trust to Luck*

Lean back under a tree, put your arms behind your head, wonder at the pass we've come to, smile, and remember that the beginnings and ends of man's every great enterprise are untidy.

——SEBASTIAN DE GRAZIA,
Of Time, Work, and Leisure

Do not say, "When I have leisure I shall study." You may never have the leisure.

——HILLEL, *Pirkei Avot, II*

CHAPTER VII

A JEWISH ETHIC OF LEISURE

IN HIS *Utopia*, published in 1516, Sir Thomas More predicted a situation which no doubt amused the practical men of his time: a nine-hour day and sixty-hour workweek. From the point of view of the proportion of work to leisure in the pattern of contemporary society, we are living a utopian existence. Whether the results of this new apportionment of our time is actually proving "utopian" is altogether another question.

THE NEW LEISURE

Today, almost all of us are members of the leisure class, a designation no longer confined exclusively to a particular aristocratic elite. Leisure is gradually replacing work as the basis of culture. "Literally a revolution has occurred—a turning around—for what was on the periphery is now at the heart of man's daily existence."¹ Even our work is more leisurely than ever before, if we except those professions in which tension and anxiety are part of the warp and woof of the work itself. The Protestant ethic has weakened, and in place of the admiration accorded work and diligence in and for themselves, a new leisureliness has taken hold, what David Reisman in his *Individualism Reconsidered* has called, "the modern cult of effortlessness."

A cultural transformation of this sort must have religious as well as social and economic consequences. For the problem of leisure is the problem of how we use time, and the problem of time is the problem of life itself. It simply will not do to continue considering the problem of leisure as frivolous, relegating it to resort entrepreneurs, travel agents, and summer-camp

people. "Leisure is part of man's ultimate concern. It is a crucial part of the very search for meaning in life, inasmuch as the social malaise of our time has been diagnosed as anxiety and boredom, alienation and meaninglessness."² But whether or not we consider leisure as a theological problem per se, certainly the profound changes it can cause in man's outlook and disposition represent a challenge to religion and require that guidance be provided in adjusting to the changing economic conditions and social patterns. In short, it is desirable that efforts be undertaken to develop a Jewish ethic of leisure.

A Leisure Explosion?

Before proceeding any further, it is best to clarify the empirical situation: is there indeed a sudden excess of leisure so as to raise serious problems for us? On the face of it, there certainly is a leisure explosion. President John F. Kennedy announced at the beginning of the seventh decade of this century that the major domestic challenge of the 60's would be that of automation, and he included in it not only the economic problems raised by the subsequent unemployment and need for retraining, but also the deeper and subtler problem of the utilization of this new-found leisure. Towards the end of that decade, the Southern California Research Council predicted that by 1985 the typical worker in the United States will have the choice of a 25-week vacation, retirement at age 38, or a 22-hour workweek—a truly frightening situation for the typical American who spends Sunday morning at church praying for eternity and the same rainy afternoon is at his wits' end because he cannot attend or watch the ball game on TV and has no idea what to do with his time!

Yet a caveat should be inserted here. Despite what has been said above, so richly supported by popular wisdom, not all experts agree that the situation is so happy as to constitute a threat. In a research study sponsored by the Twentieth Century Fund, it was found that, the unemployed and part-time worker aside, the typical American is working only a few hours, if any, less than his counterpart worked a hundred years ago. Moonlighting, travel to and from the job, making neces-

sary home repairs, etc., leave almost as little time for full leisure as a century ago. The conclusion is that "the more time-saving machinery there is, the more pressed a person is for time."³ (Actually, the paradox is not a new one. John Stuart Mill noticed the failure of "labor-saving devices" in the 1860's, and so did Samuel Butler.)⁴ And, more recently, in a leading article in a prestigious business journal, one writer laid to rest all the predictions as to the sudden abundance of leisure time in the foreseeable future. The United States will continue to have a "scarcity" economy, and "the prospect of greatly reducing the hours on life's treadmills remains nothing more than a prospect." The more time we save in making goods, the more time we spend in providing services. Hence, "for a long time we'll probably have to work as hard as ever."⁵

Nevertheless, all this having been noted, there is little doubt that we do have sufficient leisure around to warrant our attention and concern, whether more or less than in the past, and whether or not more can be expected in the future. The problem may not get worse, but it is bad enough. Furthermore, leisure is not an affliction peculiar to "affluent" societies alone. The distinction between work and leisure as two separate states appears to be universal. The Dutch linguist Huizinga has observed, in his *Homo Ludens*, that every language he had examined had a different word for work and a different one for play, the distinction thus pointing to something innate rather than socially acquired and conditioned. Furthermore, while the full-time workingman may have little significantly increased leisure time, there has been a redistribution of available time that has served to create a special problem for those least capable of solving it. Free time goes increasingly to those with the least resources to enjoy it: the worker suddenly laid off, with no money to enjoy his new free time, and early retirement at a time of increasing longevity, or longer vacations for those whose educational backgrounds have not prepared them for a life of cultivation of the mind. At the same time, those best equipped to use leisure creatively—scholars, thinkers, the managers of wealth, etc.—are the ones who today work long hours.⁶ There

is a real element of tragedy in the otherwise comical situation described by Robert Browning:

When a man's busy, why, leisure
Strikes him as wonderful pleasure;
'Faith, and at leisure once is he?
Straightway, he wants to be busy.

Leisure has become for us, and possibly has in some measure always been, a source of anxiety and worry.

Leisure as a Problem

The problem of leisure is of crucial importance for our society. Historians have hinted ominously at the relation between the fate of a civilization and the way its members use or abuse their leisure. It might seem frivolous to suggest that, for instance, the future of Western civilization hinges on the success of the bowling industry. Yet it is quite reasonable to assume that the vigor and toughness of a nation is displayed in its choice of leisure activity, which is more descriptive of its inner character than work, for the character of its work may be dictated by necessity rather than by choice. The communal uses of leisure may well make or break a culture, revealing its inner moral worth and determining its cultural growth or decline for a long time to come.

The notion that a man's true character is revealed in his disposition of his "play" time is anticipated in the Talmud⁷ which tells us that a man's character can be tested in three ways: *be'kiso*, *be'koso*, *u've'kaaso*, by his pocket—is he a miser or is he a spendthrift? by his cup—how does he respond to the temptation of alcoholic excesses? and by his temper—can he control himself in the presence of provocation? These three provide a guide to what kind of person a man is. But there is a fourth test according to some, a fourth index of character or personality: *af be'sahako*, also by his "play"—how does he use his leisure? That will reveal the essential quality of a man.

Our major problem is that boredom—the concession of

failure in the confrontation with the challenge of leisure—leads to the erosion of meaningfulness in life. There is a straight road that leads from ennui to anomie. The bored man seeks to escape the world where free men choose and decide, and seeks instead the deadening environment of noisy and gaudy entertainment which will anesthetize the quest for meaning which goes unanswered within him. A wise psychiatrist speaks of an “existential vacuum” revealing itself in the state of boredom.

. . . Now we can understand Schopenhauer when he said that mankind was apparently doomed to vacillate eternally between the two extremes of distress and boredom. In actual fact, boredom is now causing and, certainly, bringing to psychiatrists more problems to solve than is distress. . . . Think, for instance, of “Sunday neurosis,” that kind of depression which afflicts people who become aware of the lack of content in their lives when the rush of the busy week is over and the void within themselves becomes manifest. Not a few cases of suicide can be traced back to this existential vacuum. Such widespread phenomena as alcoholism and juvenile delinquency are not understandable unless we recognize the existential vacuum underlying them. This is also true of the crises of pensioners and aging people. . . . Moreover, there are various masks and guises under which the existential vacuum appears. Sometimes the frustrated will to meaning is vicariously compensated for by a will to power, including the most primitive form of the will to power, the will to money. In other cases, the place of frustrated will to meaning is taken by the will to pleasure. That is why existential frustration often eventuates in sexual compensation. We can observe, in such cases, that the sexual libido becomes rampant in the existential vacuum.⁸

The situation, then, is frightening enough as is. Considering the predictions of yet more frustration (or better, blank time), especially when due to early retirement, the dangers become

awesome. If these predictions, indeed, become a reality in the next few years, as they show every promise of doing, what in heaven's name will our people do with all that spare time? Cultivate the soul and mind? Or dull their brains and fill their cranial cavities with that ceaseless flow of tripe and terror that issues from television and other channels of mass communication? Or, worse yet, will they seek the cheap thrills of social, moral, and legal delinquency?

WORK AND REST

Now, one cannot speak of *the* Jewish view of leisure. The situation has simply never presented itself in just those terms to allow the most authoritative expositors of Judaism to pronounce on it and allow a consensus—or several of them—to develop. What we must do is refer to the sources and make a modest attempt at adumbrating the outline of *a* Jewish ethic of leisure. There is no suggestion here of thoroughness in examining these sources, merely a gathering of some major passages and opinions and an attempt to organize them coherently and make explicit some of the values which have not heretofore been brought out into the open.

It is well known that the Rabbis of the Talmud did not disdain manual labor. Indeed, most of them, if not all, were engaged in various occupations in order to earn their livelihood;⁹ the rabbinate first emerged as a profession in the Middle Ages. Yet work was looked upon as something necessary, not an autonomous virtue. There are values that transcend that of work, such as the study of Torah. R. Simeon b. Yoḥai exposed an apparent contradiction between two Scriptural verses. In Deuteronomy (11:14) we read that we are to gather in our corn and oil and wine, implying that we are to do the work. In Isaiah (61:5) the promise is given to the "mourners of Zion" that strangers will tend their flocks and foreigners till their soil. How do we resolve the contradiction? The verse in Isaiah refers to the times the Israelites perform the will of God, the one in Deuteronomy to when they fail to perform His will.¹⁰ Work is thus a necessity, not a blessing.¹¹

But, to skip a whole period of history, the desire for leisure

time (other than for the study of Torah) did not win the unrestrained enthusiasm of Jewish thinkers. Saadia Gaon, in developing his theory of character on the Platonic model, which requires a well-rounded personality fulfilling all potentialities in harmony, and which abjures one-sidedness, speaks of the excessive striving for "rest" (which is essentially the same as leisure) as one such one-sided aberration. Granting that leisure is necessary for physical and mental recovery, and is the aim of religion as well, witness the Sabbath and holidays, it nevertheless is a vain and empty goal if taken by and for itself. It has meaning only as the aftermath of strenuous exertion, and hence is ancillary to work, but can never replace it. Taken without work, it is mere laziness, and the consequences of idleness need not be belabored. Yet Saadia recognizes that it is not quite so simple, not so black-and-white. In his last comment on the subject, he acknowledges that it is natural to find the soul inclining towards rest or leisure, because the Creator must have implanted it there, since Scripture considers it a premonition or anticipation of the serenity and tranquility which will characterize eternal life.¹² The eschatological note rescues leisure from faring any worse at the hands of Saadia.

Leisure and the God Idea

It is fair to say, I believe, that Judaism takes the middle road, staying clear of either extreme. If we take the idea of *imago Dei* seriously, then it is legitimate to prescribe for the human "image" what holds true for the divine Creator; anthropology summarizes theology. The Jewish conception of God rejected the full implications of both the Aristotelian and the Neo-Platonic conceptions. Aristotle's Prime Mover was not a living God; He was impersonal, eternally introverted, unrelated, indeed, catatonically incapable of relationship. He was, as a distinguished philosopher of history has called him, an "eternal paralytic."¹³ The God of Aristotle was one who never created, never worked, was always at rest and in leisure—on a perpetual and infinite vacation—as He contemplated Himself for all eternity. The Neo-Platonic God, however, created, but He created because He had to. Emanationism denied divine

freedom. God emanated existence because it was in His nature to do so, and not as the result of a free choice. This Deity is an unceasing worker, a slave of His own creativity. He is a God who never takes a vacation, a God who knows no rest or leisure. The God of the Bible was neither the one nor the other—or, perhaps, both the one and the other. A God of freedom, He both “worked” and “rested,” created and ceased creating. The pattern of work and leisure for man, affirming both in correct proportion, is an act of *imitatio Dei*.

Man needs both. Without work, he lacks self-approval and an opportunity for the catharsis of his aggressive instincts. Without leisure, his emotions are starved, his selfhood stunted, his identity diminished.¹⁴ “Study [of Torah] unaccompanied by work must ultimately fail and bring on sin.”¹⁵

The Holiness of Time

A more direct approach to the construction of an ethic of leisure would be through a consideration of the value Judaism places on time. For leisure means greater availability of time, and time is man’s most precious possession. The drama of existence in Judaism is essentially temporal. The encounter between man and God is captured not so much in holy places as in sacred moments. A number of writers have emphasized the priority that Judaism grants to time over space: from Jewish theologians, especially Abraham Joshua Heschel who has approached it both poetically and philosophically; to Christian theologians such as Harvey Cox who, in his *The Secular City*, recognized the concept of *seculum* against *mundus* as the Biblical conceptual framework; and Jewish historians such as Salo Baron, who begins his monumental work with attention to the preference of Judaism for the historical over the agricultural-geographical explanations of the Festivals. In this they are no doubt correct. The Halakhah offers ample support for this thesis. Some forms of *kedushat ha-zeman* (holiness of time) are unconditional, though others are not. Thus, while the holidays are dependent upon the calendar, which must be determined and sanctified by the Jewish court acting on behalf of the Israelite people, the holiness of Sabbath remains absolute and

unconditional. Its sanctity is promulgated by God, not by man. Its designated time cannot, therefore, be changed by any human agency. *Kedushat ha-makom* (holiness of space), contrariwise, is always conditioned upon human agency. A synagogue is holy only because people pray there. A Torah scroll is sacred only if the scribe's intentions were pure and thoughts holy while writing. Even the Talmudists who maintain that the sanctity of the Holy Land is enduring and can never be abrogated, agree that initially its sanctity required the act of *kiddush*, of dedication or sanctification by human beings. The holiness of time was fixed even before Sinai: the Sabbath was decreed at Marah. The holiness of place was undetermined even after Sinai. "To the place which I will show thee" is how God refers to the Temple site in the Bible. Holiness is more a temporal than a spatial quality. The event has a greater claim on *kedushah* than does locale. A man may conceivably live a whole life in one room and never have access to a holy place. But he cannot live a week without experiencing, or being subject to, the holiness of time.

What is sacred, however, can be desecrated. If time is precious, then its misuse is a calamity. Danger is always the natural concomitant of opportunity. And it is this ambivalence, this attitude of risk towards time, which must characterize our approach to leisure, which is simply available time. It is good or bad, creative or destructive, all depending upon our own orientation towards it.

Sabbath Rest

Now, if time is the concept which serves as the criterion for an ethic of leisure (or, more precisely, a theology of leisure), and the Sabbath is the expression *par excellence* of the holiness of time, then it is important to search in the complex of Sabbath itself for some closer identification of leisure. The pattern of "six days shalt thou work" and the seventh day as a Sabbath does indeed represent a pattern for work-leisure. Upon further investigation, we may find one specific concept that not only directly speaks of leisure on the Sabbath, but that is paradigmatic for leisure in general, and that may serve as a model

for an ethic of leisure. That concept is *menuḥah*, Sabbath "rest."

The central precept of *Shabbat* is, of course, the refraining from indulging in *melakhah*, in creative changes in nature, the halakhic definition of "work."¹⁶ A corollary, however, is "rest." The Bible, in the second version of the Ten Commandments, requires observance of the Sabbath "that thy manservant and thy maid-servant may rest as well as thou." This means that on *Shabbat* one must not work in the ordinary, lay sense of the term: not go to offices or schools or stores. Apparently, this resting is a purely negative act. It is a vacation, a day off. However, that this is not at all so may be seen from the significance of *menuḥah* as emphasized throughout the Sabbath liturgy. Three times we pray, "God and God of our fathers, be pleased with our rest (*menuḥah*) . . .," as though *menuḥah* were a form of *avodat ha-Shem*, as are sacrifices. Obviously we are not dealing with a mere self-indulgent vacation, anthropomorphically invoking God's maternal approval of our concern with our health. The *Minḥah* prayer, which celebrates the qualities of *menuḥah*, concludes its central portion on this note: ". . . and by means of (Israel's) *menuḥah*, they sanctify Thy Name." Sabbath rest is thus nothing less than a vehicle for the observance of Judaism's most illustrious precept, *kiddush ha-Shem*, "the sanctification of the divine Name." But to "sanctify the Name" means to act in such a manner, generally before Gentiles, that glory will redound to Judaism and enhance the Name (i.e., reputation) of the God of Israel in the world.¹⁸ Obviously we are dealing with something far more fundamental than just taking a day off from work every week. There lies within *menuḥah* a concept that Jews must teach to all mankind (unlike the halakhic observance of the prohibition of *melakhah* which was covenanted only for Jews), and the appreciation of which will add to the glory of God and Torah. We are dealing, in other words, with a Jewish ideal of *universal* import and relevance. As such, its implications must extend beyond that of relaxation.

The positive quality of *menuḥah* is revealed in the Talmudic aggadah concerning the translation of the Torah into Greek,

the Septuagint.¹⁹ One of the changes agreed to independently by each of the seventy translators concerned the verse: "... on the seventh day God finished His work which He made; and He rested on the seventh day."²⁰ If God *finished* His work on the seventh day, that implies that He worked into the Sabbath day. Hence, to avoid this error, they translated, "... on the *sixth* day God finished His work..." Now, this may serve to clarify the problem in Greek; what, however, of the original Hebrew? The Rabbis answer with a parable which indicates that the culmination of all creation was created on the Sabbath day: *menuḥah*, rest.²¹ Obviously the definition of "rest" or leisure is not mere passivity or time off, simple relaxation, but something far more significant and novel, something which requires *creation* and which itself is the culmination of all previous creations.

This the Greeks did not understand. The pagan mentality could not grasp that *menuḥah* has positive content. Even Hellenistic Jews were misled as to this interpretation of *menuḥat Shabbat*. They understood the Sabbath as an opportunity to refresh oneself the better to be able to work the next six days—almost a capitalistic dispensation: I will let you take one day off, but get a good rest so that you can produce more the following week.

Leisure as the Purpose of Creation

However, the authentic Jewish view is not that the Sabbath was created for the six days, thus reducing *menuḥah* to the character of a vacation, but that the six days were created for the sake of the Sabbath; that, as indicated, the *menuḥah* was itself the apex of the order of creation. The point is corroborated by Don Isaac Abravanel, the great Spanish exegete and thinker, in his commentary on the very first word of the second chapter of Genesis. We read, *Va-yekhulu ha-shamayim ve'ha-aretz*, "the heaven and the earth were finished." *Va-yekhulu* is translated as "finished." But that is not its only meaning. *Va-yekhulu* also comes from the word *takhlit* or "purpose." In English, as in Latin and Greek, the same double meaning occurs. Thus the word "end" has two meanings: conclusion

and also purpose, as in "means and ends." Similarly in Hebrew the word *takhlit* means both conclusion and purpose. Hence, *va-yekhulu ha-shamayim ve'ha-aretz* not only means that "heaven and earth were finished"; it also means "heaven and earth attained their *takhlit*, their purpose." That *takhlit* or purpose was *Shabbat*. So do we say in our Friday-night prayer: "You sanctified the seventh day, *takhlit maaseh shamayim va-aretz*, as the purpose of the creation of heaven and earth." The proof text follows: *Va-yekhulu ha-shamayim*, etc.

The same perspective on the relation of Sabbath to the work-week is indicated by the medieval German mystic, R. Judah He-Ḥasid: "One who goes to sleep on the Sabbath should not say, 'Let us sleep so that we can do our work when the Sabbath is over,' but rather let him say, 'Let us rest for today is the Sabbath.'"²² And an eminent Talmudist of the last century, commenting on the variation between the Decalogue as recorded in Exodus, and the one recorded in Deuteronomy, maintains that *zakhor*, "remember" the Sabbath day, means that during the entire week we are to put aside choice provisions for the Sabbath; and *shamor*, "observe" or "keep" the Sabbath day, is its negative—that we must not fail to lay up supplies for the Sabbath during the workweek. Both intend, therefore, that the six days are in preparation for the seventh. According to this, we understand the relevance of the verse "Six days shall you labor and do all your work, and the seventh shall be a Sabbath for the Lord your God. . . ." Work during the six days becomes a duty and a virtue because it is a preparation for the seventh day. *Shabbat* is the purpose of the whole week.²³

Clearly, then, the more genuinely Jewish conception is not that we have *menuḥah* on the Sabbath in order the better to work on the other days, but we work in order to rest, in order to participate in *menuḥah*.

What is the content of *menuḥah*, such that it makes *Shabbat* the purpose of the rest of the week and comprises the universal dimension (as an act of the sanctification of the Name) of Judaism's most distinctive religious institution?

The answer, I believe, lies in this. *Issur melakhah*, the pro-

hibition of labor, implies the cessation of our activities imposed by us as creative personalities upon the natural world. But authentic *menuḥah* requires that on the Sabbath we direct these creative changes not onto nature but onto ourselves, spiritually and intellectually. *Menuḥah* is not a suspension, for one day of the week, of our creative energies, but a refocusing of our creative talents upon ourselves. The difference between the prohibited *melakhah* and the recommended *menuḥah* lies not in the *fact* of creativity, but in the *object* of one's creative powers: oneself or one's environment, the inner world or the outer world.

Hence, *menuḥah* is now seen as religiously enforced leisure, a model for all leisure activity, defining leisure, optimally, as creativity turned in on oneself.

The Misuse of Leisure

With the above in mind, we may now turn to an analysis of the forms of leisure, in the hope that this classification will offer us the beginnings of a more detailed Jewish ethic of leisure. In Hebrew we find not one but three terms for leisure, each of which has a different value and different signification within the context of *menuḥah*.

The first of these is *sehok*, or play. This term is frequently used in rabbinic literature as a euphemism for the three cardinal crimes: unchastity, idolatry, even murder, in the sense of tormenting a victim. *Sehok* is the *misuse* of leisure. It indicates a debilitating kind of idleness, a useless and degenerate play. So, when two English researchers recently discovered that the chief diversion of young English people is increased sexual itineracy,²⁴ they confirmed what the Jewish Sages warned of many centuries ago. "*Sehok* is primarily sexual immorality," said the Rabbis.²⁵ The exact definition of *sehok* was a matter of dispute between two first-century Sages, R. Eliezer and R. Simeon b. Gamaliel.²⁶ The problem concerned the enforced idleness (*batalah*) of a housewife, either because of an abundance of servants, or because her husband vowed not to benefit from her personal labors. Both Rabbis agreed that the situation was intolerable. R. Eliezer maintained that even if she

had a hundred maids, she ought to do some work in the household, "for idleness leads to *zimah*, unchastity." R. Simeon, dealing with the case where the husband vowed to abstain from benefiting from his wife's work, decreed that he must divorce her and grant her her *ketubah* (dowry and settlement), "for idleness leads to *shi'amum*." This last word, in modern Hebrew, usually means "boredom"; in all probability that is its original meaning in the Mishnah. Soncino translates it as "idiocy," which is a shade too harsh a rendition of Rashi's translation of the word as *shigaon*. Maimonides' translation of *shi'amum* as *behalah*, which means a kind of frightened confusion, would locate the term somewhere in between the two. Indeed, the Sages anticipated a modern discovery: boredom may lead to mental breakdown. The mind cannot long maintain its integrity if unoccupied and unstimulated. And boredom is the principal product of idleness. R. Simeon preferred divorce to idleness or misused leisure that can lead only to gross violation of the wife's psychological integrity.

According to the Talmud,²⁷ the difference between the two Tannaim occurs in a case where the wife spends her time at dog races and other such "leisure" activities. Here only R. Eliezer's stricture would apply, for the element of *zimah* or immorality may certainly enter into the situation. R. Simeon, however, would be lenient, because as there is not total idleness there is no danger of *shi'amum*. The Talmud decides in favor of the stricter opinion, that of R. Eliezer.

The *sehok*-misuse of leisure is thus objectionable both morally and psychologically. When there is nothing to do, you do what you ought not do. One may add that the Rabbis knew this from a careful reading of history. They were not strangers to Imperial Rome and its social and moral patterns. And in Rome, the day's work was usually done by noon or shortly thereafter, with the rest of the time spent in pleasure and amusement. More than half the days of the year were holidays. It is probable that the Rabbis saw a cause-and-effect relation between this excessive and misspent leisure and the immorality of Rome which they so deplored. The relation between *sehok* and *zimah* is all too obvious.

God's Rest

Turning now from *sehok* to the positive content of leisure, we find two words in Hebrew, both Sabbath-associated words. When the Torah describes God as "resting," it says: *shavat va-yinafash*. *Shavat* (He rested) is similar to the word *Shabbat*, and it means to refrain from work. *Shevitah* (the noun, which in contemporary Hebrew also means a strike) is a period in which we desist from work. The negative, passive aspect is immediately evident. The second word is *va-yinafash* (noun: *nofesh*). This signifies another form of leisure. *Va-yinafash* or *nofesh* comes from the word *nefesh*, the soul, the spirit.

Hence, the concept of *menuhah* contains one or both of these ideas. The negative understanding of *menuhah* (or leisure) we may call *shevitah*, cessation of activity. The positive we may call *nofesh*.²⁸ (We are not using *shevitah* in a pejorative sense, because both of these signify proper uses of leisure.) Before proceeding to define more carefully the human significations of these two terms, it is best to recall that although Sabbath observance need not be considered altogether an act of *imitatio Dei*, at least in the limited sense of the practice of *menuhah* it may be regarded as just that. Since the terms *shevitah* and *nofesh* are used of God in the Biblical text, they must be understood in the first instance as divine attributes and then, *mutatis mutandis*, as categories of the human use of leisure.

Actually, not much change is required, and it will be seen that the definitions of *shevitah* and *nofesh* in Exodus 31:17 follow logically from their formulation as human categories. In the early part of Genesis we find God appearing in three phases, two of them explicit. "In the beginning God created" initiates the period of God's creativity. Implied is a precreative phase in which God existed by Himself. The term *shavat va-yinafash* now indicates the transition from the second period to the third, from the creative phase to the postcreative. Here the two words *shevitah* and *nofesh* are both identical and divergent. They are identical in that His "rest" means a return to the first stage, equating the precreative and the postcreative phases *in regard to His creativity*. God steps out of His role

as Creator. But there is a difference. The creation itself introduces a new, dynamic element into the divine life. The universe, and the freedom He granted its intelligent creatures, implies an element of the unpredictable, of surprise and contingency.²⁹ This freedom, or contingency, is inextricably bound up with the idea that in withdrawing from the divine act of creation (*mi she-amar le'olam dai*), He gave man the mandate to continue the initial act of creation as an ongoing process. This is the new element in the total picture which makes the third phase of God's life different from the first and which, essentially, makes time and history irreversible. *Shevitah* implies the restoration of God, in relation to Himself, to the initial precreative phase. There are, from the point of view of *shevitah*, essentially only two chapters in the divine biography. *Nofesh* makes the third, postcreative stage qualitatively different from the first or precreative. God must now deal with man who is himself a creator, who continues the process initiated by God in His second phase. *Nofesh* is a characteristically theistic element. Deism could accept the concept of *shevitah*, for it would indicate a resignation by God from the material universe, an introversion and an abandonment of the world as though it had never existed. The concept of *nofesh*, however, posits an ongoing dialogue between the Creator, after His initial act, and His creature-creators. Only of a personal God can we say *va-yinafash*.

Shevitah

Having suggested the content of the two terms as divine attributes, we may now turn to their meanings as human terms. *Shevitah* means that a man ceases his usual labors, and this respite from routine activity allows him to rediscover himself by emerging from the workweek. Overinvolved in and overwhelmed by his set pattern of work, a man's dignity is threatened. He begins to identify himself by the functions he performs in society or family and turns into an impersonal cipher, like a beast of burden that can be just as easily replaced by another function-bearing animal that happens to be technologically efficient. By disengaging from his involvement with

nature, with society, with business, man is permitted self-expression. His real "self" comes to the fore. He does not have to be busy taking notes or selling or buying or fighting. By means of *shevitah* on his Sabbath day of "rest," he can start expressing the real self that lies within. *Shevitah* is thus the use of leisure to *restore* one's individuality in all its integrity. By pulling out of the routine of weekday involvement, I confront myself in order to find out who I am. Leisure helps me resolve my "identity crisis." By getting away from my normal activities, which harness me into the measured responses of a Pavlovian, completely deterministic way of acting during the week, my inner, original ego emerges; I can rediscover myself when I am taken out of the matrix of these challenges and the responses which are expected of me. In this sense, *shevitah* exploits the limits of my character and my potentialities. (As we shall see shortly, it *exploits* them but it cannot *expand* them.) It is the desirable result of available time not wasted in *sehok*.

In practical terms, leisure is a time for games. Leisure refers not only to *time*, but also to the *nature* of the activity.³¹ You can drive a car and it is part of your work, because you are a cabdriver; but you can drive and consider it leisure. You can just think and regard that as work, if you are a professor or a student; but you can also think and feel it is a delight and a joy—whether you are a taxi driver in the one case or an intellectual in the other. Leisure is a game activity in the highest sense. We place a person in a new environment, in new conditions, allow him to bring out unsuspected skills that were heretofore latent in him, to express himself in new ways, whether of esthetics or athletics or any other way to which he is unaccustomed during the week.

Nofesh

From here we go to the next step, *nofesh*. *Nofesh* is more than self-discovery; it is the use of leisure for self-transformation. Paradoxically, it is in a sense more passive than *shevitah*. Instead of activity for the purpose of self-expression, it may require a certain kind of personal, inner silence in which you

make yourself available for a higher *impression*. It is the incorporation of the transcendent rather than the articulation of the immanent. You try to respond to something that comes from without, from above. *Nofesh* means not to fulfill yourself but to go outside yourself, to rise beyond yourself; not to *discover* your identity, but rather to *create* a new and a better identity. *Nofesh* requires of us that we take our creative talents, which during the week are applied to impersonal nature or unengaged society, and now turn them inwards and create a new, real self. This is the inner and deeper meaning of *menuhah*: it is *re-creation*, not relaxation.

Tradition speaks of an interesting phenomenon concerning the Sabbath. During the week everyone has a *neshamah*, a soul. But on *Shabbat* we receive a *neshamah yeterah*, an "additional soul." This suggests that there is some kind of undeveloped facet of personality, a spiritual dimension, of which we remain unaware in the normal course of events. On *Shabbat* (in the *nofesh* sense of a *menuhah*) we are given the time to enrich ourselves by developing or creating this spiritual dimension. Hence, whereas *shevitah* implies the development of a latent, preexistent talent, *nofesh* means the creation of a novelty within the personality, bringing in something new, transforming the self by growing into a *neshamah yeterah*.

The question is: how is this done? The act of *shevitah*, of expressing oneself, is something in which social workers are expert. The more difficult challenge is: how do you transcend yourself, how do you effect *nofesh*?

Doing Nothing

Perhaps the first answer should be: do nothing. By simply removing the distractions and the obsession with work which chokes off creativity during the week, man's innate propensity for self-creativity may come to express itself quite naturally. When Alexander the Great asked Diogenes whether he could do anything for him, the famed philosopher replied, "Just stand out of my light." And Hasidim of the great R. Nahman of Bratzlav used to set aside an hour a day known as the Dead Hour, in which all business would be set aside, nothing

structured permitted, and allow the repressed soul to come to the fore; dead to the world, and alive to oneself. *Shevitah* itself may lead quite effortlessly, at least with some people, to a *nofesh*-use of *menuḥah*. Perhaps some day we shall know how to heighten creativity. Until then, one of the best things we can do for creative men and women is to "stand out of their light."³²

The Study of Torah

Second, and more important, Judaism provides its classical answer to the ideal *nofesh*-utilization of leisure time. It is the intellectual way: the study of Torah. "The Sabbaths were given to Israel in order that they might study Torah."³³ The Sabbath, both as a specific day and as the model for an ethic of leisure, is the occasion for study.

The ancient Greeks regarded the use of leisure for contemplation as a central element in their culture. The Greek word for leisure, *scholē*, is the origin (via the Latin *schola*) of our word "school." In the period of Socrates, Plato, and Aristotle, the idea of leisure meant being engaged in something desirable for its own sake—the composition of music or poetry, conversation—and above all it meant the exercise of the speculative faculty and the cultivation of the mind. Contemplation was for Plato and Aristotle the way to truth, and the *via contemplativa* was therefore cherished more than the *via activa*.

Modern civilization, however, is too action-oriented to adopt the peripatetic ethic as a way of life for leisure expression.³⁴ Study is more active than contemplation as such, and hence more accessible to it. (Nevertheless, we must not underestimate the value of leisure for education, not only as simply available time, but as a necessary component of the educational process. Scott Buchanan has pointed out that Socrates was not only a noisy questioner, but a great *brooder*. "This is a good description of teaching: brooding, almost in the literal sense, the way a hen broods over her chickens.")³⁵

More important, intellectual development has never been enough for the Jew; it must be informed with moral purpose. Such moral-oriented study is what is meant by *talmud torah*.³⁶

For the Jewish tradition, the study of the Torah is the highest value; it outweighs all other commandments.³⁷ The moral quality of Torah study is indirect. One need not study only with the specific intention of knowing how to practice, although one must never study with the idea that he will not carry it out in practice.³⁸ It is a most unusual idea in the history of religion; an entire people is commanded to study not only so that they may know what to believe or how to observe, not only so that they may survive and perpetuate themselves, but because study itself has an innate value, because it is by itself the supreme value for which other things are propaedeutic, only means leading to this end. Torah is thus, primarily, an intellectual activity, but one informed with moral purpose and infused with religious meaning. So important is the study of Torah that one scholar of the second century, R. Ishmael, explains, that only because the Bible explicitly tells us: "... if ye shall hearken diligently unto My commandments . . . I will give the rain of your land in its season . . . that *thou mayest gather in thy corn and thy wine and thine oil*,"³⁹ are we permitted to work during the week. If not for this verse, a man would never be permitted to work, to "gather in" his "corn and wine and oil." Why not? Because he would be obliged to do only one thing all his life, namely: to study Torah, "to meditate in it by day and by night."⁴⁰ For Jews, the study of Torah is not something you do when you take time out of your "normal" activity. Rather, what we are wont to call our "normal" activity is the time that we take off, legitimately or illegitimately, from what normative Judaism considers our major activity, the study of Torah. That is why the Talmud speaks of the need for a special dispensation to engage in work other than Torah.

Constancy of Study

Study was considered not a dispensable virtue, but one that if one fails to do it, one is guilty. *Bittul Torah*, the neglect of study, when circumstances allow for study to take place, is a cardinal sin. Thus the Rabbis taught that one ought not engage in frivolous conversation with a woman lest such a

flirtation lead him to neglect his studies, and this will cause him "to inherit Gehinnom."⁴¹ For this reason the Halakhah regards man's normal state that of preoccupation in the study of Torah; every other activity is a temporary distraction. Thus, although every other blessing pronounced over the performance of a commandment must be followed immediately by the act of *mitzvah* so that, if one is interrupted between blessing and performance with some profane activity it must be recited again, this does not hold true for the blessings recited in the morning over the study of Torah.⁴² The commandment to study Torah is thus total, it applies to all times and takes precedence over all other activities.⁴³ This general principle is expressed programmatically by Maimonides⁴⁴ who divides the day into twelve hours—three for working and nine for studying. This idea may appear unusual to moderns because of its time allotment, but it is an illustration of the fact that there is in Torah enough material to occupy a man's mind for a full lifetime, and that Judaism sees Torah study as the Jew's major occupation. And because it is also a *mitzvah*, or morally-infused intellectual labor, it is more than innately worthless, time-filling "plowing of parched fields," a sort of "make-work" scheme for idle minds, but the kind of pursuit which can change a man's life and redefine for him, progressively, his place in the universe and his relations with his God.

Hence we must attempt to find leisure expression not only in the standard ways to which we are normally accustomed, through games, skills, aesthetics, art, song, choreography—although this too must never be overlooked, for this is legitimate as the *shevitah* aspect of *menuḥah*. Indeed, simple relaxation can have religious significance. Maimonides⁴⁵ tells us that upon arising each morning a man "must know before whom he lies." But we must progress beyond this and find an outlet in the most creative activity known to Israel, namely, study.

Leisurely Study

Now when I say that *nofesh* requires that we use leisure for Jewish learning, I do not mean necessarily scholarship of the professional kind, or the kind of education our children

get in school, which is, under the best circumstances, routinized. Perhaps we may have to devise a form of game-oriented study. We mentioned earlier that the same activity can be of the nature of work or that of a game. In the history of Jewish scholarship, there is a long story of reaction during the last three hundred years or so against the Talmudic methodology called *pilpul*, subtle dialectics (pejoratively called "hair-splitting"), the tendency to pull together disparate ideas from all corners of the earth and build difficult, abstract, and abstruse conceptual structures. Those who opposed *pilpul* believed in straight and unencumbered analysis. One would be hard put to find anyone reckless enough to venture a defense, let alone advocacy, of *pilpul* today. But in truth, *pilpul* has been unfairly maligned, for this is the way the intellect "plays," the way the mind indulges in its delightful games and exercises. I can lug cartons of dresses up seven stories and not like what I am doing, but if I go to the gym and I do the same kind of exercise playing basketball, I enjoy it. Similarly, the mind can think along straight analytic terms and it is part of its "work," but when it relaxes and spins off ideas in the stimulating patterns of dialectic, it is a happy game, a leisure-type thinking. Perhaps we have to rediscover that technique for our own times, especially for the highest kind of leisure activity, *nofesh*.

CONCLUSION

Surely the finest expression of the quest for leisure as the fundamental element in Jewish aspiration comes from the closing paragraphs of Maimonides' immortal code, the *Mishneh Torah*,⁴⁶ where leisure and its proper uses are portrayed as the essence of the Messianic vision:

The Sages and Prophets did not hope for the coming of the Messiah in order that they might rule over the world, or have dominion over the other nations, or that they might be glorified by other peoples, or in order to eat and drink—but that they be free to engage in the study of Torah and its wisdom, without anyone to oppress them

or distract them, so that they might thereby deserve the life of eternity.

In that time [of Messiah] there will be neither famine nor war, neither envy nor competition. Goodness will be available in great abundance, precious things as commonplace as dust. And the business of the entire world will be only to know God. Therefore will Israelites be great sages, knowing the hidden things, and comprehending the knowledge of their Creator, insofar as humans are able. As it is said, "for the earth will be full of the knowledge of the Lord as the waters fill the sea."

NOTES TO CHAPTER VII

1. Robert Lee, in *Religion and Leisure in America: A Study in Four Dimensions*, Abingdon Press (1964).
2. *Ibid.*
3. Sebastian de Grazia, *Of Time, Work and Leisure* (New York: 1962), p. 329.
4. See Jacques Barzun, *Science: The Glorious Entertainment*, p. 257.
5. Gilbert Burck, "There'll Be Less Leisure Than You Think," *Fortune*, March 1970.
6. August Heckscher, "Reflections on the Manpower Revolution," in *American Scholar*, Autumn 1964.
7. *Eruvin* 65b.
8. Viktor Frankl, *Man's Search for Meaning*, p. 169f.
9. Some of the references to well-known Talmudic sages as craftsmen or laborers are as follows: *Yoma* 35b (Hillel); *Shab.* 31a (Shammai); *Meg.* 17b, Rashi (R. Simeon Hapakoli); *Shab.* 49a (R. Yosi b. Halafta); *Ber.* 28a (R. Joshua); *Taanit* 23a (Abba Hilkiah); *Pes.* 113b (R. Hanina and R. Oshia); etc., etc. Other statements revealing a positive orientation to labor include: *Avot* 1:10, 2:2; *Kid.* 29b, 82a; *Git.* 67b; *Ned.* 49b; *Sanh.* 29a.
10. *Ber.* 35b. The resolution by the Talmud is somewhat problematical; see MaHaRSHA, *Hiddushei Aggadot*, *ad loc.* But see R. Zadok Hakohen of Lublin, *Peri Tzaddik* (to *Lekh Lekha*).
11. Cf. *Eruvin* 13b. It is, however, erroneous to conclude that the Bible considered this necessity for labor as a curse, because Adam was punished by having to earn his bread by the sweat of his brow (Gen. 3:17-19). The meaning of these verses is that the work will not be rewarding, that the labor will be disproportionate to the prize. Adam was originally placed in the Garden of Eden "to work it and keep it" (Gen. 2:15), implying the naturalness, as it were, of work.
12. *Sefer Emunot ve 'Deot* 10:16.
13. Harry Austryn Wolfson, *The Philosophy of Spinoza*, Harvard University Press (1948), II, p. 346f.
14. Barzun, *op. cit.*, p. 258.
15. *Avot* 2:2.
16. For the implications of the prohibition of *melakhah*, see *supra*, Chap. VI.
17. *Deut.* 5:14.
18. See my article on "*Kiddush and Hllul Hashem*," in the *Encyclopedia Judaica*, scheduled for publication in 1971.
19. *Meg.* 9a.
20. *Gen.* 2:2.
21. *Gen.* R. 10:10, according to Rashi in his commentary to the Pentateuch. See *Matnot Kehunah*, *ad loc.*
22. *Sefer Hasidim*, ed. Reuben Margoliot, Mosad Harav Kook, p. 228, #226.
23. R. Naftali Zvi Yehudah Berlin, *Haamek Davar* to *Deut.* 5:12.
24. Downtree and Lavers, in *English Life and Leisure*.
25. *Tanna de 'bei Eliyahu Rabbah*, 13.
26. *Ketubot* 59b.
27. *Ketubot* 61b.
28. This definition of *nofesh* (see further in text) seems to be belied by II Samuel 16:14 where we are told of King David and his people arriving weary: *va-yinafesh sham*, "and he rested there." At first glance, the word as here used has a purely physical connotation, as opposed to *ayefim*, tired.

However, the verse must not be taken out of context: David's sagging morale was a result of his pursuit by his son Absalom, and his humiliation by Shimi. *Va-yinafesh* may then refer not so much to his physical fatigue as to his psychological rehabilitation after suffering indignities. The remaining verse where *nofesh* is used in verbal form is most enlightening. God gave the Sabbath, the Torah teaches (Exodus 23:12), so that thy ox and thy ass can *yanuah* (rest, from *menuhah*), and so that the son of thy maid-servant and the stranger may *ve'yinafesh*. The concept of Sabbath-rest is thus not the same for animal and for man. For animals the Sabbath achieves, maximally, *menuhah* (of the form *shevitah*), the kind of "leisure" that will free the animal from the enforced labor to which it is subjected by its human masters, and allow it to exercise its own "individuality" which, in this case, means to graze, drink, breathe, and fulfill its other biological functions without interference. One cannot, of course, speak of development and transformation with regard to an animal's self or character. With regard to humans, however, the Torah changes its terms. The structure of the sentence is parallelistic, in keeping with Biblical literary style, but that does not diminish the significance of the specific words used by the Bible. The "son of thy maid-servant and the stranger" may also experience, on a human level, *menuhah* (of *shevitah*). But Sabbath-rest, the archetype for leisure time, has a more creative function for human beings: *nofesh*.

29. See *supra*, end of Chap. I.

30. See further on this *supra*, Chapter VI.

31. "Leisure is the state of being free of everyday necessity. . . . The man in this state is at leisure and whatever he does is done leisurely."—Sebastian de Grazia, in *Of Time, Work, and Leisure*.

32. John W. Gardner, *No Easy Victories*, Harper and Row (New York: 1968), p. 50.

33. J. T., *Shab.* 15:3.

34. See Graham C. Taylor, "Work and Leisure in the Age of Automation," in *Main Currents in Modern Thought* (May–June 1966), p. 118.

35. *Embers of the World: Conversations with Scott Buchanan*, ed., Harris Wofford, Jr., The Center for the Study of Democratic Institutions (Santa Barbara, California: 1970), p. 50.

36. See Chapters III, VI, and VII of my forthcoming work on the study of Torah *lishmah* in the works of R. Hayyim of Volozhin, to be published in 1971–72 (English, Philipp Feldheim, New York; Hebrew, Mosad Harav Kook, Jerusalem).

37. *Peah* 1:1.

38. *Supra*, n. 35, and see below, Chap. VIII, on "Scholarship and Piety."

39. *Deut.* 11:13–14.

40. *Ber.* 35b.

41. *Avot* 1:5.

42. Tos., s.v., *she'kevar*, *Ber.* 11b, and see *Sh. A. O. H.* 47, especially *Turei Zahav* (8). R. Yair Bachrach (*Responsa Havot Yair*) considers the earning of a livelihood as an indirect form of "engaging" in Torah, since it is a means of allowing study to continue; hence the verb *la'asok*, rather than *li'lmod* in the formula of the blessing.

43. See my article on the study of Torah in *Hapardes*, Vol. 28, No. 11.

44. *Hil. Talmud Torah* 1:12.

45. *Guide for the Perplexed*, 3:51.

46. *Hil. Melakhim*, 12:4,5.

CHAPTER VIII

SCHOLARSHIP AND PIETY

Foreword

The center of the widespread discontent that characterizes the social and cultural transformations of our times is the university. It is not only that, as the habitat of young people, the campus has become the locus of rebelliousness, the place "where the action is." More significantly, it is against the university itself, as the symbol of American education, that much of youth rebels. It rejects the antiseptic disinterestedness of much of the irrelevant and pedantic academic exercises that substitute for scholarship. And it is repelled by that part of the academic community that has subordinated its goals to those of the military-industrial complex.

However, if pure scholarship is dismissed as irrelevant, and industry or defense work is a case of "selling out," must the university necessarily commit its scholarly resources to those social and political causes which the most radical and vocal students demand?

The role of scholarship in contemporary society has not yet been defined. Much ink will yet be spilled, perhaps blood too, before a consensus is achieved. But until then, it is worth taking the trouble to learn how scholarship was viewed in another age and in another culture in its interaction with other values.

No pretense is here made as to the practical benefits of such wisdom. How traditional Judaism in the eighteenth century viewed the study of Torah as an intellectual exercise, in relationship to religious experience and piety, will tell us precious little about how mathematical physics or social psychology should

relate to urban unemployment. But it will at least give us the reassurance that similar problems, mutatis mutandis, have engaged the most creative minds of the past. At least we are not alone in our vexation.

PIETY (*yirah*, *yirat haShem*, *yirat het*, *yirat shamayim*) is, needless to say, fundamental to all religion. It is, indeed, the characteristic mood and expression of religious man. In Judaism, however, there is a precept which challenges the supremacy of piety alone, but which is deeply bound up with it, and that is, scholarship, specifically, the study of Torah. The Mishnah considers this study as transcending all other commandments.¹

The history of the prominence accorded to study as a major value in Judaism is beyond the scope of this chapter. Its culmination, however, came in the theology of R. Hayyim of Volozhin (1749-1821), as it found expression in his short *magnum opus*, the posthumously published *Nefesh ha-Hayyim* and, to a lesser extent, in his weekly lectures on *Avot*, on which students' notes were collated and later published under the title of *Ruah Hayyim*. Drawing upon the many sources of the halakhic, aggadic, and kabbalistic traditions, R. Hayyim formulated his conception of Torah, and its corollary, the value of the study of Torah, for the most part in kabbalistic terms. He assigned a value greater to Torah and its study than had ever been allotted or dared before. He saw Torah, in its hypostatic essence, as identified with divinity, and located its origin beyond the World of the Sefirot—which the Kabbalah conceived of as mediating between God in His absoluteness (*En Sof*) and the phenomenal world—and prior to the divine emanations of the myriads of mystical worlds. The source of Torah was not even *Atzilut*, the first of the four mystical worlds, the one in which God and His attributes constitute an indivisible unity and about which nothing can be said save that it exists and is known by such a name. Torah, said R. Hayyim, originates in the infinitely mysterious regions of the *En Sof* itself and, therefore, is the *telos* of all existence. Not only that, but the continued existence of all the worlds, material

and mystical alike, are contingent upon the study of Torah.² The question of whether the impetus for this rather bold assertion came in response to the challenge of the growing Ḥasidic movement and its implied threat to the supremacy of Torah and Torah study, or as an attempt to reestablish the prestige of scholarship in Torah in a country (Lithuania) where it had fallen into neglect, is a historical problem which is irrelevant to our present purposes. As an educator, founder of the Yeshivah of Volozhin, and as the leading rabbinic figure amongst the Mitnagdim, the opponents of Ḥasidism, it is fair to assume that both tendencies joined in inspiring this response of the reformulation of the Torah concept. R. Ḥayyim's view deeply influenced the Yeshivah of Volozhin, which he established in the opening years of the nineteenth century, and through it all the other great academies of Lithuania, and subsequently Israel, the United States, and England, in the nineteenth and twentieth centuries.

In considering the problem of the relationship between scholarship and piety in the religious philosophy of R. Ḥayyim, and their relative evaluation, a further contribution by R. Ḥayyim to the concept of Torah study must be considered: his definition of the Talmudic concept of *Torah lishmah*,³ usually translated as "Torah for its own sake"—the motivation for the study of Torah. The definition of this teleology of study is largely determined by one's general orientation to Jewish values, such as the role of intellect as against ethical and ritual performances. Furthermore, the degree to which one insists upon pure motivation, i.e., study of Torah *lishmah*, depends upon the significance one attaches to the study of Torah, as such, in the complex of religious values: the more one esteems the act of study relative to all else, the less is he disposed to demand *lishmah*, however one interprets the term, and to disqualify study in the absence of *lishmah*. (i.e., *shelo lishmah*); and conversely, the less one's relative emphasis on scholarship as a religious value, the more likely is his insistence upon *lishmah*.⁴

The various definitions of the term *Torah lishmah* can

generally be grouped in three categories, it being understood that they are not mutually exclusive:

a. The Functional Definition: *Lishmah* means study for the sake of observing the precepts dealt with in the Torah texts being studied. Hence, *li'lmod al menat la'asot*, to study in order to do, i.e., perform the commandments being investigated.⁵

b. The Devotional Definitions: Torah must be studied "for the sake of Heaven";⁶ for the love (rather than fear) of God;⁷ or to attain certain mystical ends;⁸ or to achieve *devekut* (communion) with God experientially.⁹

c. The Cognitive Definition: Study for the sake of knowing and understanding the Torah. In this definition, made famous by R. Ḥayyim, *lishmah* means *leshem ha-torah*, for the sake of the Torah itself.¹⁰

R. Ḥayyim's development of a cognitive teleology of Torah study as the essence of the concept of *Torah lishmah* presents a serious problem of the relationship of this cognitive intention or motivation to the functional and the devotional. Of these, the latter is the more troublesome. The functional aspect of the study of Torah is affirmed by all authorities in some measure, and can readily be assimilated into any other interpretation, at least negatively: that one must never study not in order to practice.¹¹ At the same time, R. Ḥayyim's cognitive definition is not so involuted and exclusively reflexive and intellectualistic as to ignore the nonintellectual, functional significance of Torah.¹² Ratiocination is the key—true, the exclusive key, but only the key—to the mystical organism called "Torah," and therefore the other significations of *lishmah* are included in the complex of motivations in R. Ḥayyim's teleology of Torah study. The cognitive and the functional elements can therefore coexist; there is not necessarily any competition between them.

However, the question now arises as to the relationship between the cognitive (scholarship) and the devotional (piety) ends of Torah study. The latter, unlike the functional, cannot, by its very nature, be taken negatively. Is there, then, the possibility of a simultaneous teleology of the two? Are *ratio* and *devotio* compatible in the consciousness of the scholar?

And if not, how does R. Ḥayyim treat the latter, an obviously fundamental religious category, without jeopardizing the cognitive *telos* of the study of Torah? The problem—the relationship of scholarship and piety, the tension between the intellectual and the devotional in the study of Torah—has, as we shall see, both theoretical and practical consequences of the greatest importance.

The terms used by R. Ḥayyim to distinguish between these two poles are *Torah*, by which he means, of course, study¹³—the intellectual enterprise—and *Yirah*.¹⁴ This latter term comprehends three related items in R. Ḥayyim's writings: the devotional experience (*devekut*), i.e., the active, affective, ecstatic element in the religious devotion; the passive devotional mood or state of mind (the fear of sin, *יראת חטא*); and the study of the devotional or didactic literature (*ספרי יראה, ספרי מוסר*), which may or may not lead to the other two. While, ultimately, R. Ḥayyim deals with all three in like manner, in defining their relationship with "Torah" we shall, for analytical and historical reasons, treat them separately.

R. Ḥayyim's theoretical objections to *devekut*, Ḥasidic style, are important in his general criticism of Ḥasidism. His strictures mark him as the leading thinker amongst their opponents, the Mitnagdim. His overall objections¹⁵ are not germane to our problem. What is of relevance to us is his argument that an active, demonstrative religious experience simply cannot coexist with the emotional tranquility necessary for proper mental concentration and attention in the study of Torah *lishmah*, in order to understand. In addition, R. Ḥayyim was personally suspicious of emotional extravagance,¹⁶ a mistrust that seems to have been quite characteristic of Lithuanian Jews.¹⁷ No doubt he was largely influenced in this respect by his teacher, R. Elijah the Gaon of Vilna who, despite his own charismatic gifts and mystical visitations, was highly skeptical of any demonstrativeness or boasting or any immodest publicity given to such intimate and private experience.¹⁸ Neither in principle nor in personality was R. Ḥayyim, as a preeminently "halakhic man," favorably disposed towards the extravagant devotional experience of *devekut*.¹⁹

A quite different problem is presented in the relationship of the devotional state of mind, "the fear of sin," and the study of Torah. The preachment of this conscious piety was part of the public program of Ḥasidism. The Mitnagdic Rabbis (allowing for individual exceptions), following rabbinic custom, usually preached only twice a year, on the Sabbaths before Yom Kippur and Passover. The sermon on the latter Sabbath was confined to halakhic *pilpul*, and rarely included moral exhortation or *Musar* which was left to the *maggid* or *mokhiah*, the official preacher. The sermon on the Sabbath before Yom Kippur, the *derashah* for Shabbat Shuvah, was devoted to the preachment of *Musar*, especially by the greater Rabbis, who often expressed annoyance at their colleagues who misused the occasion for a display of their Talmudic virtuosity. But even then, their addresses were intellectualized and unemotional, and quite esoteric, making the greatest impression upon the inner circle of cognoscenti and often incomprehensible to the uneducated masses. The Ḥasidic Zaddik, however, began to assume the functions of the *maggid* and, in keeping with the whole pietistic and "democratic" thrust of the movement, concerned himself with the inculcation of pious conduct and feeling (what R. Ḥayyim calls "the fear of sin") which was preached every Sabbath, usually during the "third meal." Even when the Zaddik employed the Kabbalah in his talks, they were exoteric, in comparison to the rarified intellectual discourses of his Mitnagdic contemporaries on Halakhah. The Ḥasidic masters were conscious of the fact that their emphasis on this devotional mood was an innovation and, according to accepted rabbinic method, attempted to justify it. The reason they advanced for this emphasis was its necessity due to the diminished spiritual capacities of "these later generations."²⁰

R. Ḥayyim, of course, does not deny the importance of piety; he unhesitatingly grants the need for *Yirah*, per se. "It certainly cannot be said, concerning the engagement in Torah, that there is no need for purity of thought and fear of the Lord; Heaven forbid!"²¹ He quotes copiously from the Talmud, Midrash, and Zohar to demonstrate what is an obvious essential of Judaism, but a truism that nevertheless needs to be affirmed

by him in view of his unprecedented emphasis on the intellectual dimension, that of the study of Torah. "Woe to scholars who engage in Torah but possess no fear of Heaven."²² Hence "the priority of fear of the Lord is the major guarantee for the existence of the wisdom of the Torah."²³ On the basis of a passage in the Talmud,²⁴ R. Ḥayyim compares *Yirah* to the storagehouse and *Torah* to the grain to be stored therein. Without piety one simply lacks the capacity for study; if a man has not first prepared for himself the storage house of *Yirah*, then all his grain, i.e., the *Torah* he studies, will lie on the fields and rot.²⁵ Hence they are also coextensive: the greater one's piety, the greater the divine wisdom he can amass. *Yirah* represents the capacity for the Study of Torah.

It therefore depends upon the storage house of *Yirah* which comes first for man; if a man has prepared for himself a great storage house of pure fear of the Lord, then the Lord gives him wisdom and understanding in great abundance, according as to how much his storage house can contain. All depends upon his storage space. But if a man has not prepared even a small storage space, i.e., he has no fear of Him at all, Heaven forfend, then He, in turn, grants him no wisdom at all, since it cannot endure for him, for his Torah becomes disgraced.²⁶

R. Ḥayyim concludes his comments on the significance of the devotional state of mind for the existence of Torah in a manner that, at the same time, reaffirms the superiority of Torah over all else.

It has thus been explained that although *Yirah* is but one commandment, and the Jerusalem Talmud in the beginning of *Peah* says that all the commandments are not equal to one word of the Torah, yet the commandment to acquire the fear of Him is very great, in that it is necessary for the major existence and survival of the Holy Torah, and without it [*Yirah*], it [*Torah*] becomes disgraced, Heaven forfend, in the eyes of people.

Therefore it is necessary that it take precedence for a man over the study of Torah.²⁷

Given this reverence by R. Ḥayyim for the devotional state of mind, and his prescription of its chronological priority to study, there emerges nonetheless one basic and profound difference between R. Ḥayyim and his anonymous opponents, the Ḥasidim. For want of a better term, and in the absence of any special nomenclature for the idea in R. Ḥayyim's writings, we may call it the "Dissociation Principle." Basically, the principle is this: whereas piety is certainly a commendable virtue, and a necessary prerequisite for true scholarship in Torah, nevertheless, in contrast to Hasidism, the two must not freely intermingle. A clear line of demarcation must be set which will prevent interference of one by the other (specifically, *Torah* by *Yirah*), preclude conscious interpenetration of the two, and keep the domains of the mind and the spirit separate. Thus, while the total personality of the Jew possesses, conterminously, both the elements of *ratio* and *devotio*, as a desideratum or ideal, the two must be kept separate and distinct as conscious endeavors in a strict compartmentalization.²⁸ The Dissociation Principle is applied by R. Ḥayyim only to the study of Torah and not to the performance of the other commandments. This distinction flows from, and guards his own position against, his strictures on Ḥasidic *devekut* during the time of study.²⁹

It is precisely because *Yirah* cannot be practiced simultaneously and concomitantly with *Torah*, as it can with other *mitzvot*, that a more detailed analysis of the relationship of scholarship and piety is called for. Some of this exposition by R. Ḥayyim has already been mentioned; thus, the chronological priority, despite the axiological subordination, of *devotio* to *ratio*.³⁰ A corollary of this separateness and inequality in value of the two elements is R. Ḥayyim's insistence that the devotional mood not be fostered at the expense of scholarship. Referring again to the metaphor of storage house and grain, and based upon the same Talmudic passage,³¹ R. Ḥayyim puts the issue directly and quite strongly:

So it is in the matter of *Yirah*: if one spends more time on it than is necessary for the preservation and survival of the abundance of grain, i.e. Torah, then he is considered to be robbing the Torah of that extra time which he should have been spending in study. For it was not permitted to engage in the contemplation and acquisition of *Yirah*, except as one can estimate intelligently that, in accordance with his own nature and condition, this is the amount of time that is needed, and necessary for him, to engage in the acquisition of *Yirah* and *Musar*, for the purpose of the preservation and survival of the grain of Torah.³²

The conscious meditation in "the fear of sin" is, furthermore, especially superfluous for the true student of Torah, because the man who regularly studies Torah *lishmah* does not need all this toil and exertion and long time spent on books of *Yirah*, as does one who does not regularly engage in Torah.

For the holy Torah of itself invests him with the fear of the Lord in very little time and with very little effort expended on it. For this is the way and peculiar quality of the Holy Torah; as [the Rabbis] said (*Avot* 6:1), "whoever occupies himself with the study of Torah *lishmah* . . . [the Torah] invests him with humility and fear."³³

Moreover, not only does erudition in Torah inspire conscious piety, without special efforts made toward that end, but the study of Torah is itself a form of objective *devekut* in the Torah, so that the very act of intellection in Torah is, by and of itself and without any awareness of devotional intention, an act of piety.

During the study of and inquiry into Torah one certainly does not need *devekut* at all, for by means of study and inquiry alone one is attached (*davuk*) to His will and His word, and He and His will and His word are One.³⁴

R. Hayyim's identification of the study of Torah as itself an act of *devekut* is not original with him;³⁵ but in light of the supernal origin of Torah, according to R. Hayyim, the act of automatic *devekut* becomes accordingly more sublime. It is this same august, trans-*Atzilut* origin of Torah that accounts for the fact that R. Hayyim applies the Dissociation Principle only to study of Torah and not to the performance of the commandments; the latter, optimally, should be accompanied with *devekut*, in order thereby to achieve the proper mystical effects (*tikkunim*), but the study of Torah, the laws of the commandments and their halakhah, must be "for their own sake," that is, cognitively, for the sake of the very words of Torah, to know and understand them, unaccompanied by any other consideration.³⁶ The fact that study of Torah is in itself an act of *devekut* does not obviate the need for at least some time consciously to create a devotional mood; but the time so set aside must not be excessive:

Therefore, in truth—and this is the true way which He, blessed be He, chose—every time before a man prepares to study, it is proper for him to meditate in pure heart before he begins, at least for a brief period, in pure fear of the Lord,³⁷ to confess one's sin from the depths of his heart, so that his [study of] Torah may be holy and pure. He should intend to attach himself [effect *devekut*], by means of this study, with the Torah, with the Holy One; that is, to attach himself [effect *devekut*] with all his powers to the Word of the Lord, which is Halakhah. Thereby he will be attached [*davuk*], as it were, with God, in reality; for He and His will are One, as the Zohar states. And every law and halakhah of the Holy Torah is His will, for thus did His will decree, that this be the law: valid or invalid, impure or pure, forbidden or permitted, guilty or innocent. Even if he studies the words of the Aggadah, which are irrelevant to the law, he is also attached [*davuk*] with the word of the Holy One . . . and He and His word are One . . .

Therefore all the Torah is uniformly sacred without any difference or change at all, Heaven forbid. . . .³⁸

But, R. Hayyim repeats more than once, this time put aside for nurturing the devotional mood, "fear," must not be disproportionate to its importance relative to Torah. Thus, referring again to the Talmudic passage in *Sab.* 31a, R. Hayyim takes the Aggadah in utter literalness³⁹ and therefrom deduces that if we calculate fifteen hours per day devoted to the study of Torah (*sic!*), then no more than about five minutes ought be set aside for "fear,"⁴⁰ and, again taking a text—this time a Mishnah⁴¹—literally, places this five-minute devotional period at the very beginning of the day. Nevertheless, he adds, study remains supreme, for piety is but the "storage house," contrary to those who, holding piety to be more important than scholarship, ridicule those who study Torah declaring that they study *she'lo lishmah*.⁴² As a maximum, R. Hayyim would allow an additional brief period in the middle of one's studies for devotional meditation, if one feels that his "fear of the Lord" is weak and will not endure.⁴³ He apparently feels that this will not violate the Dissociation Principle provided it is not overdone, and the period for "fear" is clearly delineated so that it does not interfere with the exclusive mental concentration necessary for proper study of the Halakhah.⁴⁴

What does this devotional meditation consist of? The "accounting with his Owner in purity of heart in fear of the Lord"⁴⁵ comprises three distinct elements. The first of these is the cleansing of oneself from past transgressions by means of thoughts of repentance.⁴⁶ The second is the awareness that the purely intellectual study of Torah in and by itself constitutes *devekut* with the divine Word and Will.⁴⁷ Finally, the student must resolve to practice and observe all the precepts of both the Written and Oral Torah.⁴⁸ In a sense we have here a résumé—though R. Hayyim does not explicitly state so—of the three major definitions of *lishmah*: the first recalls the devotional; the second, the cognitive definition of R. Hayyim (according to whom intellection is not an end in itself, but

the means to the organic mystical entity called Torah), and the last is, clearly, the functional.

The Ḥasidim, against whom R. Ḥayyim was reacting in establishing scholarship as superior to piety, disagreed, of course, with the views of R. Ḥayyim, but they were not altogether unaware of the problems he raised. Recognizing the fact that rabbinic tradition grants primacy to the act of study of Torah, the Besht declares that in past generations people were strong in "fear" and holiness, and hence did not have to meditate in "fear," but now a historical change has occurred, and circumstances are different;⁴⁹ hence we cannot rely on our native predisposition to a devotional frame of mind and must set aside times for deliberate meditation.⁵⁰ The former emphasis on study is thus interpreted as operational or tactical, but essentially even study is subordinate to piety. Hence, extensive and uninterrupted preoccupation with study detracts from the greater good of piety, in the sense of God-consciousness. Constant meditation is necessary, for sometimes one can, by his very involvement in studying, increase the distance between himself and his Creator; hence, one must consider before Whom he is studying.⁵¹ *Devekut*, as a conscious, active experience, introduces an extraneous, nonacademic element into the mind of the student—a spiritual leaven according to the Ḥasidim, a pietistic distraction according to R. Ḥayyim.

The Besht does not have much good to say for the study of Torah in order to satisfy one's intellectual bent. Thus he asks: How can the Talmud refer to the halakhic discourses of Abaye and Raba as a "small matter" (in contradistinction to the esoteric inquiry into Ezekiel's vision of the *Merkavah*, the basic text of much of the Kabbalah, which is considered a "great matter");⁵² are not such discourses of the essence of Torah, revealed at Sinai? He answers that the Talmud does not mean to distinguish between the objective disciplines of Halakhah and Kabbalah, but refers, rather, to the subjective orientation of the student. Everything depends upon a man's intention. If his intention is merely cognitive, the comprehension of the subject matter, be it Halakhah or Kabbalah, it is "a small matter." "The discourses of Abaye

and Raba," that is, study for the sheer intellectual delight it offers, is almost of no religious significance; even if the subject matter is sacred, the act of study is not essentially different from the study of secular wisdom. If the motivation for study is, however, devotional, the achievement of *devekut*, then it is "a greater matter," for then one has indicated his willingness to make himself a *merkavah* for God,⁵³ whether it be through the study of Halakhah or Kabbalah or, for that matter, the performance of any *mitzvah*.⁵⁴ Clearly, then, the *telos* of the study of Torah is to be wholly devotional. It is in this spirit that R. Pinhas of Koretz recommends that the student, in mentioning the opinion of any Tanna or Amora, try to visualize him as though he were standing before him, thus serving as an aid to drawing down upon himself the spiritual vitality that mystically inheres in the letters of Torah.⁵⁵

The Besht himself recognizes an incongruity between the devotional and cognitive aspects of study, and concedes the difficulty of doing justice to both simultaneously;⁵⁶ yet he is not willing to grant the thesis that must have been cited in opposition to his outlook, and which was so persistently advocated later by R. Hayyim, namely that the study of Torah is in and of itself an act of *devekut* even without any special intention or spiritual effort. "Thou shalt be perfect with the Lord thy God" (Deut. 18:13) refers to the Study of Torah; "perfect" means "study," as in the verse "the Torah of the Lord is perfect" (Ps. 19:8). Hence, even when you are "perfect," i.e., engaged in the study of Torah, nevertheless you must be conscious of "being with the Lord thy God." Study without devotional intention is not considered dogmatically an act of *devekut*, of devotion or attachment to God. In an ingenious and characteristically Beshtian interpretation of a Mishnah in *Avot*, he proceeds to expound his doctrine, according to which study may become an impediment to the achievement of man's spiritual goals; study without *devekut*, even if otherwise a man follow a straight path in life, is a case of his being alone, i.e., Godless.⁵⁷ The direct Hasidic rebuttal to R. Hayyim, in the pseudepigraphic *Metzaref Avodah*, begins by granting the preeminence of *Torah* over *Yirah*, but then interprets the

central proof-text of R. Hayyim's Dissociation Principle to diminish this principle and introduce, to a much larger extent, the periods of devotional meditation into the normal course of study.⁵⁸ To R. Hayyim's point that such meditation cannot coexists simultaneously with intellection because of its distracting nature, the author offers a psychological answer: granted that conscious thought of piety is disconcerting to the continuity of mental attention and concentration, nevertheless if the expanded program of devotional periods he recommends is followed, then this "fear" so acquired remains active on a subconscious level, and in effect we have a simultaneous act of study and devotion, one conscious and the other unconscious.⁵⁹ This position is patently a compromise between the pure *devekut* doctrine of early Hasidism and R. Hayyim's rigorous intellectualism.

What is the source of this approach of R. Hayyim to the relationship between scholarship and piety, between *ratio* and *devotio*? R. Hayyim's unwillingness to bend the disciplined activity of the intellect to, and even mix it with, the subjective flights of the devotional sentiments, is probably in large measure a result of the influence upon him by the Gaon. Mention has already been made of the Gaon's and R. Hayyim's emotional quietude.⁶⁰ Yet the Gaon was a singularly creative Kabbalist, as is well known; his Kabbalistic writings alone exceed in volume the sum of the output of all his Hasidic contemporaries,⁶¹ and there was much, perhaps even more, that remained unpublished.⁶² It should therefore come as no surprise to learn that the Gaon experienced mystic visions; though the extent and nature of these charismatic graces for a man of the Gaon's analytic acumen and extreme emotional sobriety are certainly astounding.

The main source for our information on this aspect of the Gaon's life is R. Hayyim himself, in his Foreword to the Gaon's commentary on the recondite Kabbalistic work, the *Sifra di'Tzeniuta*. R. Hayyim infers from something the Gaon told him that he, the Gaon, experienced mystical visions ("elevations of the soul") every night since he arrived at maturity; a fellow student told R. Hayyim that he had heard this ex-

plicitly from the Gaon.⁶³ In the Gaon's manuscripts, R. Hayyim read of mysteries revealed to the Gaon by Jacob, Moses, and Elijah. R. Hayyim is sure that the Gaon had nocturnal mystical flights, but is not certain whether or not he experienced such visions whilst awake during the day as well. The conversations between the two, as reported by R. Hayyim, borders on the incredible, and would so be regarded were it not for the unimpeachable integrity of R. Hayyim. Thus, the Gaon, in response to a direct question by R. Hayyim, related that he had already begun to create a *golem* by Kabbalistic means, when something occurred which he interpreted as a sign from Heaven to desist because of his youth—he was not yet thirteen years old!⁶⁴ The Gaon told R. Hayyim of visitations by angelic messengers called *Maggidim*—a term which covers a wide range of charismatic experiences⁶⁵—who offered to reveal knowledge of Torah, ostensible halakhic information, without any effort or exertion on his part.⁶⁶ The Gaon had no use for learning gained so effortlessly,⁶⁷ not only because he doubted the authenticity of the information so imparted, as did R. Hayyim Vital in writing of the *Maggid* of Karo,⁶⁸ but because the lack of mental toil and labor invalidates the whole intellectual enterprise and condemns the results, even if correct, as worthless.⁶⁹ The Gaon warned his students against them. R. Hayyim writes:

Our Rabbi [the Gaon] sent me to my younger brother, my senior in all virtues, the pious and holy Gaon R. Shelomoh Zalman, may the memory of the righteous be a blessing, to command him in his [the Gaon's] name not to accept any *Maggid*-angel who will come to him, for in a short time such a *Maggid*-angel will indeed come to him.⁷⁰

This left a deep impression upon R. Hayyim who is reported by a student of his to have doubted, in the Gaon's name, the value of all these nocturnal visions which came to the Gaon without any of the conventional Kabbalistic preparations, because they represented a form of reward, hence precluding

full reward in the hereafter.⁷¹ This "halakhic anti-supernaturalism"⁷² may indeed, as has been suggested, be based upon the desire to safeguard institutionalized rabbinic procedures from the perils of charismatic anarchy,⁷³ but that is not the full explanation. We are, after all, dealing here with Kabbalistic as well as halakhic information. His repeated references to the ease and facility with which such secret information is obtained⁷⁴ indicate that, in addition to any dangers which may flow from pneumatic lawlessness, the Gaon placed a special value on intellection *per se*;⁷⁵ he held that mental toil and effort are positive goods in their own right, and that they distinguish the intellectual enterprise from the emotional and charismatic life and hence must be kept rigorously separate from each other.⁷⁶ The Dissociation Principle, anticipated by the Gaon and fully developed by R. Hayyim, seeks to erect a wall of demarcation between the two domains not only in order to protect the Halakhah from being overwhelmed by the unpredictable and uncertain course of mysticism, but also to prevent the mind from being clouded by a fog of imprecise sentiment and thus cripple its analytic capacity,⁷⁷ and to guard against the infection of the Halakhist-intellectual with the virus of indolence and the expectation of easy returns and great triumphs without investing the hard work and diligent exertion which are the absolute conditions of the valid intellectual enterprise.

Thus the Gaon's valuation of intellectual effort transcends his concern for the independence of Halakhah from mystical aberrations, and is cherished by him for its own sake. His counsel in this regard taxes human emotions as well as human energies. R. Joseph Zondel, the student of R. Hayyim, quotes the Gaon to the effect that determined men, resolute in their faith, will engage in Torah and *mitzvot* by day and by night, even if there is no bread in the house, and remain oblivious even to their children who cry for food; nothing will distract them from their labors in the study of Torah.⁷⁸ Acts of mercy which can be achieved without bother and worry and wasting time from the study of Torah constitute a great *mitzvah*; but only if they can be accomplished in the minimum amount of

time and not divert one's attention from the study of Torah.⁷⁹ It is needless to add that the Gaon practiced what he preached in an exemplary and unique manner. His phenomenal concentration and superhuman diligence were the stuff of legends, as much as was his native genius.⁸⁰ The Gaon was extremely persistent, returning to the same subject "several hundreds of times" if necessary to understand it properly.⁸¹ He reviewed his studies "a hundred and one times" several times over, and literally gave his life for every word and interpretation of Torah; his intellectual activity in the study of Torah was constant and uninterrupted.⁸² R. Hayyim complains that he had himself not been blessed with the incredible and unimaginable diligence of the Gaon.⁸³ Certainly, then, the Gaon exerted a decisive influence over R. Hayyim in the latter's formulation of the role of the intellect in Judaism and, more specifically, the relation of *ratio* and *devotio* in the study of Torah.

Yet R. Hayyim carried the Dissociation Principle even further than his master. The Gaon's chief concern was to safeguard Halakhah from being encroached by pneumatic *experiences*; but he did permit a symbiosis of Halakhah and Kabbalistic *doctrine*, occasionally accepting the Kabbalah as the source of Halakhah, which R. Hayyim did not.⁸⁴ Despite R. Hayyim's profound knowledge of the Kabbalah, his dissociation of Halakhah from Kabbalah (except in an ultimate sense) is in practice so complete, that from studying his Halakhah one would imagine he knew no Kabbalah at all.⁸⁵ No Kabbalah was taught in the Yeshivah of Volozhin.⁸⁶ Furthermore, as has been mentioned earlier in this chapter, R. Hayyim sought to apply the Dissociation Principle even to pious sentiments within the range of normality: "fear," or what has been termed the devotional mood. This certainly goes beyond the Gaon's concern for maintaining the separateness of Halakhah from charismatic experiences.

The third area of R. Hayyim's general concern with the tension and equilibrium between scholarship and piety, or *Torah* and *Yirah*, is his treatment of the devotional literature, the "books of *Yirah*," or "books of *Musar*." By and large, he

reveals a moderately negative attitude towards this genre of pietistic writings, no doubt because he feared that the intellectually less taxing exercise might displace to too great an extent the more difficult, more demanding, and more valuable halakhic studies. R. Ḥayyim locates the origin of the popular didactic literature in an attempt to correct an earlier imbalance in favor of study of Torah:

The earlier generations spent all their days in the study of and meditation in the holy Torah . . . and the flame of the love of the holy Torah burned in their hearts like a burning flame . . . until it came to pass that some of the students set aside all their time for and studied only the *pilpul* of Torah alone, and nothing else at all; whereas we learned in our Mishnah that if there is no *Yirah* there is no wisdom.⁸⁷ . . . Therefore a number of their great people, "the eyes of the community," those whose holy duty it was to concern themselves with the general weal of our brethren the House of Israel, bestirred themselves . . . to remove the obstacle from the path of the people of the Lord . . . and composed books of piety (*Yirah*) to set aright the heart of the people, that they might engage in the holy Torah and in worship in pure fear of the Lord.⁸⁸

As a result, however, R. Ḥayyim finds that the pendulum has swung to the other extreme: preoccupation with the devotional works almost to the complete exclusion of proper study of Torah, i.e., Halakhah, based on the erroneous assumption that the whole purpose of man in the world is to engage in the study of such devotional works because they inspire man to develop good traits; meanwhile, Torah itself is neglected.⁸⁹ R. Ḥayyim offers eyewitness testimony to the popularity of this pietistic literature and the consequent attrition of true scholarship:

With my own eyes I saw in one district, where this [habit] became so widespread, that in most of their *Batei*

Midrash there were many books of *Musar*, but nothing else, not even a complete set of the Talmud.⁹⁰

R. Hayyim naturally felt scandalized by this inversion of true values. If scholarship and piety are symbolized, respectively, by grain and storage house, the similes used by the Talmud, then the misguided, exclusive concentration on devotional literature is tantamount to spending one's life building storage houses without ever finally bringing the grain into it.

So, how can one imagine that this is the purpose of a Jew, that he spend all his time set aside for study only in building the storage house of the fear of Heaven, when it is but an empty storehouse, and from all his toil he emerges with nothing more than the one commandment, "The Lord thy God shalt thou fear?"⁹¹

Even that one achievement remains in doubt: "It does not even earn the name of 'storage house' at all,"⁹² since it stores nothing within it. The whole genre of literature is, in essence, superfluous, for the study of Torah (i.e., Halakhah) *lishmah* itself inspires the piety that one must otherwise attempt to acquire artificially by means of perusing books of *Musar*.⁹³ Bothering with such work is a waste of precious time needed for study of Torah, and is but the result of the nefarious subtlety of the Evil Urge.⁹⁴ Even when engaging in devotional studies, R. Hayyim recommends the study of appropriate classical rabbinic texts, such as *Midrash* or *Ein Yaakov*, the collection of aggadah, for these not only engender the devotional mood, but they are themselves texts of Torah, unlike the special devotional literature; such texts are therefore preferable to the standard books of *Musar*, "for then one does not involve himself in wasting time from Torah, Heaven forbid."⁹⁵ The only time that a scholar should betake himself to meditation in the *Musar* literature is when he is disturbed by special temptations; then he may search in it for the solution to his particular problem.⁹⁶ The devotional works thus have for R. Hayyim a limited validity; they are to be

prescribed like medicine, not imbibed as part of one's general diet.

Further, R. Hayyim makes the point that the entire literature is beneath true scholars and should be reserved generally for laymen. Most important, he defines the *purpose* of devotional studies in a manner radically different from that advocated by the leaders of the *Musar* movement two generations later: "How exceedingly good and beautiful it is for laymen, who are always occupied in business, to study books of *Musar*, to arouse their dull hearts to set aside regular times for the study of Torah, including Halakhah and Aggadah, etc."⁹⁷ The function of the devotional period of study is, therefore, not the improvement of character as such, but the inspiration to study Torah with greater regularity and intensity.⁹⁸ Torah, therefore, remains supreme, and the devotional study is self-annihilating: its success is signified by the cessation of such study in favor of the study of Torah. In a later Hasidic polemical work, this theory is attributed to the Gaon. It is related that when the Gaon was once asked to speak words of *Musar*, his wry response was that you spank a child only to convince him to go to school and study; once he does so, there is no longer any need for striking him. So, the purpose of the devotional meditation is to urge the study of Torah; once a man studies, the devotional works are superfluous for him.⁹⁹

R. Hayyim is not single-minded in his displeasure with what he considered the new fad of *Musar* literature. Thus, as has been mentioned earlier, he counseled a brief period of devotional meditation before commencing to study, and probably had in mind meditation that arises from reading this sort of writing. He considered all extant *Musar* works as good, but recommended *Mesillat Yesharim* above all others.¹⁰⁰ But there can be little doubt that his strictures on the devotional mood apply equally for the devotional literature; the "books of *Yirah*" were, after all, composed for the purpose of inspiring *Yirah*. Hence, for R. Hayyim any more than a minimum concern with books of *Musar* represents an unwarranted distraction from the pursuit of scholarship, which of itself inspires the same *Yirah* within the heart of the student. Thus, on the Mish-

nah which relates that R. Johanan b. Zakkai instructed his students, "Go out and see which is the good way to which a man should cling,"¹⁰¹ R. Hayyim comments:

He hinted to them by the word "go out" that when you are *within* the study hall do not ponder the problems of character traits and the right ways of conduct [i.e., the substance of the *Musar* works], for this is the seduction of the Evil Urge to take you away from Torah, and afterwards lead you on to other things; therefore he said, "*go out* and see," that only after you leave the study hall is it the proper time to ponder the question of which is the good way, etc.¹⁰²

On the basis of the above, exception must be taken to the efforts of some of the leading figures of the *Musar* movement in the nineteenth century, followed by some contemporary historians of the movement, to identify R. Hayyim as one of the forefathers of *Musar*. The search for distinguished antecedents is an expected and respected part of any new impulse and changing perspective within the Jewish tradition. Thus, the tendency in *Musar* circles was to trace the origin of their movement, founded by R. Israel Lipkin of Salant (Salanter),¹⁰³ through his teacher R. Zondel, to his teacher, R. Hayyim, and through R. Hayyim, in turn, to his teacher, the Gaon of Vilna.¹⁰⁴ Here the line stops, probably because of a combination of the overwhelming authority of the Gaon, and because he was both far enough from them in time, and yet not too far; going back into earlier history would have blurred the origins of *Musar* as an organized movement. Even then, the evidence for the theory of the Gaon as the founder or even a precursor of the ethicist movement is meager indeed. Dov Katz briefly points to the fact that the Gaon recommended meditation in devotional works.¹⁰⁵ But all this proves is that he found this kind of literature acceptable and morally edifying. But this hardly makes of the Gaon a *Musarite*; for in a life of creative and copious writing, and with no evidence of any clear opposition to such devotional studies, such stray re-

marks are totally inadequate to identify him as the originator or architect of the *Musar* movement, still three generations away.

When they come to R. Ḥayyim, and place him in the line of succession, we find even more juggling of the facts. The search for antecedents is most prominent in the writings of R. Isaac Blazer ("Reb Itzelle Peterburger"), one of the three most distinguished disciples of R. Israel [Lipkin] Salanter. Blazer quotes that portion of *Nefesh ha-Ḥayyim* which permits a brief period of meditation in the middle of one's studies¹⁰⁶—which, it will be recalled, is clearly a concession on the part of R. Ḥayyim—and then attaches to it a statement from another chapter in which R. Ḥayyim clearly intends to minimize the time spent on devotional meditation without necessarily fixing the length of time in advance; but to Blazer it becomes something quite different, an escape clause. R. Ḥayyim writes:

For it was not permitted to engage in the contemplation and acquisition of *Yirah*, except as one can estimate intelligently that, in accordance with his own nature and condition, this is the amount of time that is needed and necessary for him to engage in the acquisition of *Yirah* and *Musar*.¹⁰⁷

Blazer interprets this in a manner that opens the door to the study of *Musar* for any length of time, depending upon one's own subjective judgment: "And from this one can estimate how much time is necessary for him to take account of himself before his Owner in purity of heart and fear of the Lord."¹⁰⁸ All the intervening material from *Nefesh ha-Ḥayyim*—R. Ḥayyim's limitations, his assessment of the approximate length of time to be spent on meditation, his evaluation of scholarship as always superior to devotion—is omitted from Blazer's eclectic quotation. His conclusion is, therefore, that "without doubt he [R. Zondel] received his method of *Musar* study from his teacher, R. Ḥayyim of Volozhin."¹⁰⁹ Dov Katz, the foremost historian of *Musar*, accepts uncritically Blazer's spiritual genealogy. He is sure that R. Ḥayyim was a pre-

cursor of *Musar* because of his "sharp criticism" of the earlier generations who devoted all their time to *pilpul* and none to *Musar*;¹¹⁰ actually, an objective reading of the passage in *Nefesh ha-Ḥayyim* yields no such impression. R. Ḥayyim is merely explaining why earlier generations did not meditate in *Yirah*—because they were preoccupied by study; and why later it became necessary to institute such periods of meditation and study of didactical literature—for the Evil Urge tempted them to the sole and exclusive preoccupation with halakhic studies, thereby violating the Mishnah's admonition against the pursuit of "wisdom" without "fear."¹¹¹ Compared to his brooding denunciation, both before and after this passage in the same chapter, of those who swayed to the other extreme, this historical theory of the emergence of a popular devotional literature is not "sharp" or "scathing" by any standards. Katz recognizes that R. Ḥayyim had very serious reservations about the entire literature and the exaggerated importance already being placed upon it, but then proceeds to dismiss it as trivial or irrelevant to the main brunt of R. Ḥayyim's outlook which "without doubt . . . conforms to that of the Gaon, who was so infinitely great and holy in his eyes" in approving the study of *Musar* as it was later programmed by R. Israel Salanter and his disciples.¹¹² Katz further tries to bolster his point by showing that R. Ḥayyim's personal life revealed qualities later expounded and expanded upon by *Musar*, e.g., modesty, service, and love of fellow man.¹¹³ However, the fact that a man is ethical does not precommit him to a specific ethical philosophy; R. Ḥayyim's character may have been exemplary, as it most certainly was on the basis of all the evidence we have, but it is unwarranted to deduce therefrom that he subscribed to the *Musarite* evaluation of devotional study vis-à-vis halakhic study.

R. Isaac Blazer himself, for all his efforts at locating a spiritual precursor in R. Ḥayyim, recognized that the movement of which he was a leading light did not follow the pattern recommended by R. Ḥayyim:

R. Ḥayyim of Volozhin, may the memory of the righteous

be a blessing, once said that the Evil Urge approaches man indirectly and says: "Speak about me as much as you want, provided that meanwhile you waste time from the study of Torah." To this R. Isaac Peterburger [Blazer], of blessed memory, added: That was in those days; today, however, the Evil Urge says, "study, study, provided you don't talk about me."¹¹⁴

Allowing for epigrammatic license in a bon mot, this does indicate the new and changing directions taken by the developing *Musar* movement. Indeed, upon the death of R. Israel Salanter, his student, the same R. Isaac Blazer, introduced *Musar* studies on par with Talmudic studies, to the distress and chagrin of much of the rabbinic world.¹¹⁵ This is certainly, from R. Ḥayyim's point of view, a disproportionate amount of time.

R. Ḥayyim's Dissociation Principle, his methodological dualism which kept the provinces of scholarship and piety strictly separate, was thus consistently followed by him, at least in theory, for the entire catalogue of items that might be included in the generic term of devotion, or *Yirah*, fear, as opposed to halakhic study. Halakhic scholarship must be distinct from charismatic experiences, as the Gaon had taught; from the study of Kabbalah, even diverging from the Gaon's policy; from the devotional experience of *devekut* and the devotional mood or "fear of sin," contrary to Ḥasidic doctrine; and from the study of and meditation in devotional literature, contrary to what others—whether Ḥasidim or, later, the *Musar-ites*—taught. The two realms were separate and unequal. The supremacy of Torah remained unimpeachable.¹¹⁶

I. *Peah* I:1, and elsewhere throughout the entire literature. See *supra*, end of Chap. VII.

2. *Ne'esh ha-Hayyim* (hereinafter: NH) 4:10.
3. Sifre (ed. Friedman) *Ekev*, 48; *Avot* 6:1; *Nedarim* 62a, etc.
4. The documentation for this assertion, as well as the previously mentioned Torah-concept of R. Hayyim and his definition of *Torah lishmah*, is too extensive for the purposes of this essay. A more elaborate discussion and appropriate references may be found in my doctoral dissertation, *The Study of Torah Lishmah in the Works of Rabbi Hayyim of Volozhin* (submitted at Yeshiva University, 1966), Chaps. III–VIII, to be published in English by Philipp Feldheim, New York; and in Hebrew by Mosad Harav Kook, Jerusalem, in 1971–72. See, too, my "Pukhovitzer's Concept of Torah Lishmah," in *Jewish Social Studies*, Vol. xxx No. 3, July 1968.
5. Sifre, loc. cit.; Ber. 17a; J. T. Ber. 1:5; *Sefer Hasidim*, ed. Margolioth (Jerusalem: 1950), No. 944; R. Elijah de Vidas, *Reshit Hayyim* (Jerusalem-New York: 1958), Introduction, pp. 2a, 3b; R. Isaiah Halevi Horowitz, *Shenei Luliot ha-Berit* (Jerusalem: 1959), pp. 99–101.
6. Ber. 5b; *Midrash Tehillim* (ed. S. Ruber) 31:9, pp. 240f.; all through *Sefer Eliyahu*, see Introduction by Friedman to his edition of this work, pp. 109–113.
7. Sifre (ed. Friedman) *Va-er'hanan*, 32, p. 73a; *Sotah* 31a; J. T. Ber. 9:7 and *Sotah* 5:5; Maimonides, Commentary to the Mishnah, end of *Makot*, and Code, *Hil. Teshuvah*, 10:4, 5; *Sefer Hasidim*, No. 289; Nahmanides, Commentary to the Pentateuch, to Deut. 6:5; Crescas, *Or Adonai*, 2:6, Chaps. I and II.

- beginning of Shear Hanhagah ha-Limmud.
9. Keizer Shem Toy, p. 19c; R. Pimas of Korzec (Koretz), *Likkutim Yekaratim*, p. 4b; R. Jacob Joseph of Polonne, *Toledot Yaakov Yosef* (Lwow: 1863) to Vayitzei, p. 28d, and to *Shelah*, p. 123d; R. Yosef Yitzhak Lubavitch, *Lukutei Dibburim*, Vol. III, No. 22, pp. 890-892; cf. Gershon Scholem, "Devokuth, or Communion with God," *Review of Religion*, Vol. XIV, No. 2, January 1950, p. 125.
10. *NH* 4:3, based on *Ned.* 62a, and commentary of R. Asher, *ad loc.*; cf. *Avoit de R. Nathan* (Version A) to *Avoit* 2:12.
11. Thus, Sifre (ed. Friedman), *Ekev*, 48, Ber. 17a, and elsewhere.
12. Thus, *inter alia*, *NH* 1:21, pre-4:2 ("pre-4" refers to the unnumbered section between Parts 3 and 4), 4:7.
13. The term refers specifically to study as distinct from prayer, for the Disconnection Principle (on which see *infra*) was meant especially for the former as distinguished from the latter. Thus, the Minnaged in *Menzes Avodah*, a pseudographic pro-Hasidic polemic, is at one point willing to grant to his Hasidic controversialist the need for fervor and religious zeal in prayer, which he had previously denied, but withholds such acquiescence from the Hasidic requirement of devotional consciousness and enthusiasm during the course of study of Torah, because of the incompatibility of devotional meditation and rationalization:
- ...
("למדת בצורה", p. 45.) See *infra*, n. 36.
14. This term should be taken in its generic sense of piety, and not as fear in contradistinction to love as a specific religious emotion. Thus, the

term as employed by R. Ḥayyim would no doubt include the love of God which, according to some, such as Maimonides (*supra*, n.7), is the essence of *lishmah*. If by "love" is meant the contemplative love intended, for instance, by Maimonides, this will be covered in the second of the three categories, that of the devotional *mood*; if it is taken to mean the affective, emotional, ecstatic love, as the Ḥasidim generally interpreted it, it belongs to the first of these categories, the devotional *experience*.

15. See especially *NH* 4:2. For some aspects of R. Ḥayyim's critique, see *supra*, Chap. VI.

16. In addition to R. Ḥayyim's personal discipline and almost Spartan restraint mentioned by his biographer, (Mosheh Shmuel Shapiro-Shmukler, "תולדות רבנו חיים מוואליזין," Bnei Brak [1957]), his displeasure with any untoward and immodest display of emotion is illustrated by the incident of "Rabbi Berach the Galician," a highly emotional itinerant preacher who attracted large audiences to his sermons. R. Ḥayyim, despite the hesitations of many leading Rabbis, was skeptical of the preacher's hysterics and histrionics, and pursued him until he was forcibly ejected from a synagogue in Minsk, in about 1810. R. Ḥayyim's antagonism to Rabbi Berach was based upon a letter, now lost to us, to R. Ḥayyim from R. Ephraim Zalman Margolies. We do not know exactly what happened to this preacher; it is conjectured that he either became an apostate or went mad. (Yaakov Lifschitz, "זכרון יעקב" [Kovno-Slobodka, 1924] I, p. 24f. and cf. his article in "הכרם", 1898; and Shapiro-Shmukler, pp. 144-148. These sources also tell of R. Ḥayyim's highly developed intuition in suspecting "The Crimean," a Czarist police spy looking for Jews dealing in contraband; R. Ḥayyim's actions saved Vilna Jewry.).

17. Abraham Kariv, "ליטא מכורת", in "יהדות ליטא" (Mosad Harav Kook, Jerusalem: 1959), p. 9f. Lithuanian Jews, Kariv writes, even observed the commandment "Thou shalt be joyous in thy festivals" with solemnity. The only time they permitted themselves to drink beer in the vicinity of the synagogue was on שמחת תורה, and its total effect was to make them sing "ברוך אליהו". This was the only time, other than a wedding, or other שמחה, של מצוה; that there was any community singing of a happy nature.

18. Thus the story of the "dreamer" reported by R. Ḥayyim towards the end of his Foreword to the "ספרא דצניעותא" (R. Ḥayyim relates that he heard this directly from the Gaon himself.) A Vilna Jew who was reputed to have revealed secret knowledge gained by means of dreams was brought before the Gaon. He told the Gaon that two weeks earlier he had heard certain discourses in Torah whilst R. Simeon b. Yohai sat on his right and R. Isaac Luria on his left. The Gaon paled when he heard the story—he evidently regarded the dream as substantially true and a case of valid clairvoyance—and looked deeply into the dreamer's face, and recognized that he was probably a melancholiac who, despite his psychological aberrations, often experiences true dreams. He therefore commanded that the dreamer be banished.

19. The ideal halakhic personality, according to Rabbi Joseph B. Soloveitchik ("איש ההלכה", in *Talpiyot* [1944], 1:3-4, p. 699), is wary of becoming intoxicated with joy, without any basis for its magnitude in logic or reason, preferring instead what William James has called "solemnity," i.e., an affective life which keeps to moderation and away from the extremes of excessive joy or despair. This emotional quietude, which stoic quality befits the esteem of the Halakhist for the intellect, was particularly characteristic of R. Ḥayyim. His opposition to the exaggerated experientialism of the Ḥasidim is thus not only a matter of taste and personal predisposition, but a reflection of R. Ḥayyim's successful achievement of the ideal halakhic personality, the "איש"

"ההלכה" described by Rabbi Soloveitchik. This does not mean, of course, the abandonment of all emotion or experience in favor of the implementation of an objective, legalistic, a priori, and impersonal "system," which would reduce the religious life of the Jew to an intellectualized, ritualistic behaviorism. The concern of R. Hayyim for *Yirah*, and his intense preoccupation with Kabbalah, certainly belie any such notions. R. Hayyim does, however, follow the ideal typology of Rabbi Soloveitchik in that his religious experiences are more inward than outward, more intensive and contemplative than ecstatic, as befits one who holds that experience follows and must be based upon cognition (*ibid.*, p. 704).

20. Thus, R. Pinḥas of Koretz, "ליקוטים יקרים" (Chernowitz: 1864), p. 2c.

21. *NH* 4:4.

22. *Yoma* 72b.

23. *NH* 4:4.

24. *Sab.* 31a.

25. *NH* 4:4.

26. *NH* 4:5.

27. *Ibid.*

28. One could hardly be more mistaken than S. Y. Charna (רבי חיים "חשון תרפ"ט, שנה ד' חוברת ו' of "שבילי החינוך" מולוין בתור פדגוג" p. 312, who, describing R. Hayyim's negative reaction to the extreme pietism of Ḥasidism, maintains that

הוא רוצה בסינתזה של הלמוד עם היראה, בסינתזה המביאה לידי חכמה.

R. Hayyim, in fact, wants not a synthesis in which each element loses its identity, but an accommodation or coexistence of the two in the context of one personality.

29. *NH* pre-4:2, and 4:1. See *supra*, n. 15, and *infra*, n. 36.

30. *Supra*, nn. 25–27.

31. *Supra*, n. 24.

32. 4:9. R. Hayyim's mention of "robbery" refers to *Sab.* 31a where Raba compares the relation of *Yirah* to *Torah* with that of preservative to produce; without at least a *kav* of the former, a whole *kur* of the latter is spoiled. The Talmud (*ibid.*) then appends a remark relating this metaphor to a literal case in financial law: a man who sells a *kur* of grain may include in it a *kav* of the preservative without fear of violating the law of deceit, i.e., stealing from the buyer the amount by which a *kav* of grain costs more than a *kav* of preservative. What R. Hayyim means, therefore, is that only a *kav* of preservative is permitted; more than that constitutes fraud or misrepresentation. Hence, in terms of the metaphor, the amount of time allotted to *Yirah* over and above the amount needed for the preservation of *Torah* constitutes theft or fraud. (See *infra*, n. 40.)

33. *NH*, *loc. cit.*

34. *NH* 4:10. What R. Hayyim says here of *devekut* applies *a fortiori* to *חטא*, for if study of *Torah* automatically constitutes the former, which is usually defined (i.e., by Ḥasidism) as an active and intense experience, certainly so is it an act of the latter, a far more passive state of mind.

35. Thus, for R. Joseph Karo, דבקות and דאורייתא are identical. Throughout his "מגיד מישרים", *devekut* means meditating on Halakhah in general and, for Karo, on Mishnah in particular. "Karo's *Maggid* expresses the typically rabbinic view of the matter: the study of the law can simply be equated with *devekut*. The *Torah* is God's word, His revealed logos, a mystical manifestation of the Shekhinah" R.J.Z. Werblowsky, *Joseph Karo: Lawyer and Mystic*, Oxford University Press (London: 1962), p. 158.

36. *NH* 4:3. This Ḥasidic rebuttal to the *NH*, the pseudographic *Meitzar* *Avodah*, mentioned earlier, appreciates the fact that R. Ḥayyim restricts the Dissection Principle only to study, but not practice (including prayer); thus, on p. 45: "בְּיָמֵינוּ הָיָה לְהַחֲזִיק בְּתוֹרַת הַמִּשְׁנָה וּבְתוֹרַת הַמִּשְׁנָה לְפָנֵינוּ, וְלֹא לְפָנֵינוּ לְפָנֵינוּ, וְלֹא לְפָנֵינוּ לְפָנֵינוּ." At the same time: "לְפָנֵינוּ לְפָנֵינוּ, וְלֹא לְפָנֵינוּ לְפָנֵינוּ, וְלֹא לְפָנֵינוּ לְפָנֵינוּ." See *supra*, n. 13.
37. Note the distinction between *devekut* and "fear of the Lord" and "fear of sin." The former, when consciously observed, is an intense, galvanizing experience; but, when one studies the Torah, according to R. Ḥayyim, one enacts *devekut* even in the absence of this emotional experience. "Fear," however, is the setting of the devotional mood, rather than experience, and hence is recommended by R. Ḥayyim even when *devekut* is observed automatically by means of study of Torah. See next note.
38. *NH* 4:6. R. Ḥayyim thus identifies Halakha as the Will and Aggadah as the Word of God; but since the two are identical with the divine essence, therefore the study of any part of Torah is an act of *devekut* with God. It must be emphasized that when R. Ḥayyim declares study to be an automatic *devekut*, he accepts—as he does whenever using the term—the Ḥasidic version of the concept. This, however, is not the meaning of *ishmah*, for *ishmah*, unlike *devekut*, requires much greater discrimination; because of its primary intellectualistic sense, it applies with much greater force to Halakha than to Scripture or, presumably, Aggadah. Thus his criticism of the Ḥasidic interpretation of *ishmah* as *devekut* in *NH* 4:2.
39. R. Ḥayyim's literariness in this case may be more than a fortuitous instance of a text which he could not help but interpret in a clever homiletic fashion to prove his point. His student, R. Zondel Salanter, recalls in his name that the Talmud's principle that "לֹא יִשְׁמַח בְּעַלְמָא" refers not only to Scripture but to the words of the Sages, i.e., Talmud, and the Kabbalah (1) as well. It is also reported that one Friday afternoon, after the students had left the Yeshiva in Volozhin in order to prepare for the Sabbath, R. Ḥayyim was found rolling on the floor of the Bet Hamidrash. He explained that he was executing literally the words of the Mishnah (*Avot* 1:4) "לֹא יִשְׁמַח בְּעַלְמָא" that one must "roll in the dust of the feet" of scholars of Torah, i.e., figuratively, one must pay close attention to their teachings (Dov Katz, "תורת משיח" [Tel Aviv: 1950], Vol. I, p. 108, n. 12). The story is probably apocryphal, and does not have much verisimilitude in the light of what we know of R. Ḥayyim's general personal restraint and sobriety. It is, nevertheless, an interesting insight into his reputed tendency to take the words of the Talmud literally.
40. See *supra*, n. 32. The Talmud recommends a maximum of a *kav* of preservative to a *kur* of produce. R. Ḥayyim calculates this, on the basis of programmatic weights and measures, to be in the proportion of 1:180, hence, to interpret the same text to arrive at a much greater allowance for *Yitah*: one-quarter hour at the beginning, followed by one hour of study; then if all is "going well," only about two minutes are needed for the next hour, etc., etc. (*Meitzar* *Avodah*, p. 48): *infra*, n. 58.
41. *Avot* 3:9: "לֹא יִשְׁמַח בְּעַלְמָא" "לֹא יִשְׁמַח בְּעַלְמָא" "לֹא יִשְׁמַח בְּעַלְמָא" R. Ḥayyim takes it in its chronological sense, as priority in time, rather than as a value judgment, priority in importance.
42. *NH* 4:7. R. Ḥayyim justifies this midday meditation by referring again

to the Talmudic metaphor: the preservative too must be well distributed throughout the product if it is to be effective. See *infra*, n. 58.

45. *NH* 4:7;

44. Cf. *NH* 4:2.

As it appears literally, it would seem that "ה' נאמר" is itself a distinct unit, the first of four. However, this is in all probability a stylistic awkwardness, and is intended as the generalization, with the specifics—three of them—follow.

46. *Ibid.*

47. *Ibid.*: וְהָיָה כִּי יִשְׁמַע ה' בְּקוֹלְךָ וְיִשְׁמַע ה' בְּקוֹלְךָ וְיִשְׁמַע ה' בְּקוֹלְךָ.

Alternatively, these first two may be read as one: to repent from sin in order to be able to achieve this *devekut* through Torah. R. Ḥayyim's style is imprecise and hence results in this ambiguity, but the sense of the passage would indicate the three separate elements mentioned.

48. *Ibid.* This recalls the prayer composed by R. Isaiah Halevi Horowitz for recital prior to the study of Torah: "ה' נאמר" (Jerusalem: 1959), pp. 99–191.

49. Both R. Ḥayyim and R. Shneour Zalman resort to the idea of changed circumstances, usually for the worse, in order to reconcile their views with conflicting texts. Thus R. Shneour Zalman considers the contemporary elevation of worship over study a result of the debilitation of the spirit since Tannaitic days (see his *gates* *supra*, in "ה' נאמר"; his letter, cited by H. M. Hellman, "ה' נאמר" (Berdichev: 1903), p. 38f; and "ה' נאמר" and "ה' נאמר", R. Ḥayyim, similarly, concedes the need for a devotional literature because the worsening spiritual condition of the times requires it (*NH* 4:1). Yet R. Ḥayyim prefaces this by remarking that in his immediate age the spirit is in an especially low estate, to wit the tendency to replace halakic studies with devotional works (*ibid.*). See also the reference, *supra*, n. 20, to R. Pinhas Koretzer.

50. p. 11a.

ה' נאמר וְהָיָה כִּי יִשְׁמַע ה' בְּקוֹלְךָ וְיִשְׁמַע ה' בְּקוֹלְךָ וְיִשְׁמַע ה' בְּקוֹלְךָ.

51. In "ה' נאמר".

52. *Sukkah*, 28a.

53. The Beḥai interprets *ה' נאמר* not as the name of a doctrine or study, but literally as a vehicle, in keeping with the Kabbalistic idea that each man, like the Patriarchs, must become a "vehicle" for God by submerging his will and ego entirely in offering to become His spokesman or means of carrying out the divine Will and purpose in the world.

54. "ה' נאמר", p. 16b.

55. "ה' נאמר", p. 4d. This is already recommended by the Talmud (1). T. *Shekhiṭ*, 2:5, end), but without the explanation of its effectiveness.

56. "ה' נאמר" II, p. 22b:

ה' נאמר וְהָיָה כִּי יִשְׁמַע ה' בְּקוֹלְךָ וְיִשְׁמַע ה' בְּקוֹלְךָ וְיִשְׁמַע ה' בְּקוֹלְךָ.

72. The term, coined by Werblowsky (p. 43), is stylistically felicitous, but can be misleading. The Gaon was both a Halakhist and a supernaturalist, as the above sources make abundantly clear; especially considering that the Gaon committed to writing many of the esoteric mysteries revealed to him supernaturally (*supra*, n.63). What the Gaon opposed was the free crossing of the boundaries between the two domains; in other words, what we have termed the "Dissociation Principle."

73. Werblowsky, p. 43.

74. See *supra*, n. 67: **אשר לא עמלתי ולא חכמתי**. So, too, in passages referred to in nn. 66 and 71.

75. See "אמרי שפר" in "סידור הגר"א" on the Blessings of the Torah: **הידיעה היא גוף התורה ועיקרה, והעסק היא מצוה מתרי"ג מצוות ... והידיעה לידע את התורה מצותיה ודרכיה, היא עיקר התורה, שעי"ז אנו דבקים בו ית' ומודכן נפשינו ורוחינו.**

This would indicate that the Gaon esteemed the possession of sacred knowledge more than the process of its acquisition, the reverse of R. Hayyim's judgment. Nevertheless, it is abundantly clear that the intellectual endeavor is prerequisite and of great value in the opinion of the Gaon.

76. Werblowsky (p. 41, n. 2) correctly relates the emphasis on **עמל** and the rejection of indoctrination, by vision or inspiration, to the Talmudic conception of the ultimate bliss of the soul as the study of Torah in the celestial academy. This is contrasted by him with the usual definition of mysticism in Catholic doctrine, that of the anticipation of the blessed vision in this life.

77. *NH* 4:2.

78. From a manuscript copy by R. Joseph Zondel, in Eliezer Rivlin, (ירושלים, תרפ"ז), **"הצדיק ר' יוסף זונדל ורבותיו"** (ירושלים, תרפ"ז), p. 111.

79. *Ibid.*, p. 110.

80. Cf. "עליות אליהו", p. 33. R. Boruch Epsztejn "מקור ברור", Vol. III, p. 1563f.) records an incident characteristic of the Gaon's phenomenal intensity in his intellectual endeavors, as related by R. Hayyim, who was an eyewitness, to the latter's nephew, R. Abraham Simḥah of Amstislow.

81. R. Israel of Shklov, **"פאת השלחן"**, Introduction.

82. R. Hayyim, *Foreword* . . .

83. R. Hayyim, *Open Letter*, announcing the establishment of the Yeshivah of Volozhin; for the best version, see Samuel K. Mirsky, **"ישיבת וולוז'ין"** in his **"מוסדות התורה באירופה בבנינם ובחורבנם"** (New York: 1956), p. 5.

84. Rav Tzair [Chaim Tchernowitz] **"תולדות הפוסקים"**, II p. 278; Jacob Dienstag, in *Talpiyot* Vol. IV (1949-1950), p. 263, n. 70.

85. Shapiro-Shmukler, p. 193. See, however, the story he cites from Frumkin about R. Elijah Kalischer's discovery of R. Hayyim's disguised Kabbalism in his halakhic exposition, *ibid.* p. 175f, n. 4. See, too, Bezalel Landau, **"הגאון החסיד מוילנא"**, Usha (Jerusalem: 1965), p. 142, n. 20.

86. Charna, *op. cit.*, p. 314.

87. *Avot* 3:17.

88. *NH* 4:1. R. Hayyim probably had in mind the proto-Ḥasidic literature which prepared the way, psychologically, for the advent of Ḥasidism, and which was then quite popular.

89. *Ibid.*

90. *Ibid.*

91. *NH* 4:8.

92. *Ibid.*

93. *NH* 4:9. R. Hayyim's emphasis on study of Torah *lishmah* as giving rise to piety is not meant to exclude *she'lo lishmah* as having such a beneficial

103. R. Israel Salanter is normally considered the founder of the movement, in the sense that he introduced what was for R. Joseph Zondel a personal mode of pious conduct into the public domain and began to seek adherents; thus, Katz, *op. cit.*, II, p. 137. H. L. Gordon ("אמיתות", December 11, 1964, p. 88) considers R. Joseph Zondel the originator of *Musar* in that he advocated its study as a regular part of the curriculum, and R. Isaac Blazer as the most powerful figure in the dissemination of its doctrines and influence.
104. Katz, Vol. I, pp. 86-91.
105. *Ibid.*, p. 87. But see *infra*, n. 114.
106. *NH* 4:7; *supra*, n. 43.
107. *NH* 4:9;
108. R. Isaac Blazer, "אור", p. 24. In effect, this prepares the way for *Musar* to replace Halakha as the principal subject of the curriculum and the goal of the study of Torah. H. L. Gordon, writing from his personal experience as a student in the Musarite Yeshiva of Slabodka, maintains that when *Musar* was introduced into the academies it tended to overwhelm all else and displace Talmudic studies as the central subject ("אמיתות", December 18, 1964, p. 108f).
109. *Ibid.*
110. *NH* 4:1; see *supra*, n. 88.
111. *Ibid.*
112. Katz, Vol. I, p. 88. Katz has been severely criticized, especially for his history of the movement prior to World War I, by H. L. Gordon, who cites a number of personal experiences to underscore Katz's unreliability in the early history of *Musar* ("אמיתות", December 11, 1964, pp. 88-90; December 18, 1964, p. 108f).
113. *Ibid.*, p. 89.
114. Ch. Zaichyk, "המאורעות" (2nd ed., Balshan, [New York: 1962]), p. 119. Also quoted, in approximately the same manner, in "המאורעות", (Bnei Brak [1964]), Vol. II, p. 37, No. 209. The reversal of roles attributed to the Evil Urge brings the Musarites, in this respect, quite close to the Hasidim as opposed to R. Hayyim; cf. *supra*, n. 94.
115. Gedaliahu Alon, "אור", p. 6; Rabbi Joseph B. Soloveitchik, *loc. cit.*, p. 698.
116. While R. Hayyim remains consistent throughout in theory, his concessions in practice—and they are frequent—introduced considerable ambiguity into his position; thus, for instance, his allowance for brief devotional periods in the midst of one's study (*supra*, n. 43) which left him open to misinterpretation, or at least reinterpretation, by R. Isaac Blazer (*supra*, n. 108); his allowance for laymen (n. 97), etc., etc. It is probably this attempt at reconciling the conflicting and legitimate demands of both scholarship and piety that left the erroneous impression that R. Hayyim had not developed a firm and consistent point of view, and that allowed opposing schools to read their own ideas into his words. The implications of this unintended vagueness was to be spelled out much later when the famous student "strike"

occurred at Volozhin. The strike, which lasted for three months, was directed against the spiritual overseer (משגיח), R. Abraham Droshkovitz, during the incumbency of R. Raphael Shapiro as the head of the school, i.e., after the Yeshivah of Volozhin had been "officially" closed by the government (see R. Hayyim Reuben Rabinowitz, "הדו"א", Vol. XLII, No. 18, March 2, 1962, p. 275, and as corrected in later issues by Joseph Matlov, Vol. XLII, No. 20, March 16, 1962, p. 317, and Isaac Rivkind, Vol. XLII, No. 23, April 6, 1962, p.367.) Matlov (*loc. cit.*) adds that a maxim of the striking students was **אין מולחין מלח במלח**, i.e., it is unnecessary to strengthen the influence of Torah in the Yeshivah by external means, *Musar* study, since the students already were studying Torah. This unquestionably accords with R. Hayyim's basic teachings. The most prominent Rabbis of the day were against the introduction of *Musar* into the curriculum possibly because they harbored a powerful fear and suspicion of sectarianism; nevertheless *Musar* soon infiltrated the great Lithuanian academies and, in fact, served as a timely antidote to the growing Haskalah movement (Abraham Kariv, *loc. cit.*, p. 12; G. Alon, *op. cit.*, p.5f.) The very success of the movement was its undoing. *Musar* study became so popular in the schools which accepted it that the study of Halakhah suffered. It was on this account that R. Isaac Blazer, who more than anyone else was responsible for this imbalance, was condemned by a rabbinical convocation in 1897; (H. L. Gordon, "הדו"א", December 11, 1964, p.90). These perils were clearly foreseen by R. Hayyim, and parallel similar developments in Hasidism.

CHAPTER IX

THE MORAL REVOLUTION:

A JEWISH EVALUATION

THE NEW MORALITY

THAT THE WESTERN world finds itself in the midst of a continuing moral crisis is a self-evident fact which needs no documentation. Completely appropriate to our contemporary situation is the plaint of R. Ḥaninah of Sepphoris: "Zimri [the Biblical figure connected with public immortality (Num. 25)] was only one in his generation, and because of him 24,000 of Israel died—and we have so many Zimris in our generation!"¹ The traditional moral restraints that have prevailed for centuries in Western civilization are crumbling, and Jews are not the least of those affected by the moral and spiritual rootlessness of our generation. Indeed, we probably feel the consequences of this massive displacement even more than do others, for the fulcrum of Jewish life and continuity has always been the family, and it is the family that is the first victim of moral delinquency.²

Nevertheless, for the sake of perspective, it is good to remember that such antimoral impulses are not new in history. The statement of R. Ḥaninah is itself indicative of moral laxity in third-century Palestine. There is considerable truth in the assertion that there is a *permanent* revolution against traditional Jewish sexual morality, but that the style and form and intensity of the revolt change in different historical epochs.³

There are several strands discernible in the fabric of the current protest against traditional morality. One of its most interesting aspects is the paradox of what is (by previously accepted

standards) immoralism having its genesis in an excess of moral fervor. But this calls for some preliminary remarks.

Serious advocates of the New Morality, the general term that includes the various and often conflicting movements in the sudden turn in both moral conduct and theory, are usually annoyed at the prominence given to sex in the public discussions of the theme—though they, themselves, usually devote most of their time to it. The New Morality, they assert, not without justice, is a wide-ranging ethical theory that covers much more than sexual conduct. Nevertheless, we shall here confine ourselves largely to the problems of sexual morality both because they have proven most engaging to the confused public and, if that be unfairly adjudged as mere titillation, because these problems are, from both a Jewish and general human point of view, most consequential.

Two Levels

Now, in speaking of the New Morality, we must be careful to distinguish between two general layers. One is that associated with the name of Hugh Hefner, founder of the American institution known as the "Playboy Club." This profitable commercial enterprise is accompanied by the exposition of a totally immoral "philosophy," and made to appeal mostly to professional bachelors who prefer the pleasures of married life without any of the obligations and encumbrances that issue from the legal commitment called marriage. The major theme of this school is "play it cool," do not become involved. Indeed, its philosophy of sex is really a modern variant of ancient Gnostic antisexualism, in which, as Hans Jonas has shown,⁴ contempt for this physical world is expressed either by abusing sex or by abjuring it completely; both the disuse and misuse of sex are indicative of a fundamentally negative orientation to sex. The Hefners are essentially contemptuous of women, whom they regard as merely candidates for sexual exploitation. The casual relationship which they advocate is no relationship at all; it takes no account of the existential nature of sexuality, treating coitus as an episode rather than a means to the most profound personal communication.

One can fully sympathize with the revulsion against this attitude expressed by the Women's Liberation groups. We shall not deal with this point of view at all here, save to observe that Jewish opposition to this view is based not only on the grounds that it is exploitative, but that it is fundamentally antisexual and denies the Image of God in which woman, as well as man, was created.

It is the second form of the New Morality which is of much greater interest, if only because it is a more potent and serious adversary of the moral code to which religious Jews are committed. This interpretation emphasizes and cherishes the relationship dimension of sexuality, the "sex community," and considers exploitation the original sin. Here we find a blending of the desire for maximum freedom from inherited moral codes together with a deep concern for personal sensitivities, for communication between persons as persons. It is this variety of the New Morality to which we shall henceforth refer by this name.

Underlying the particular sexological philosophy of the New Morality is the hedonistic ethos which is so integral to the entire modern experience. To enjoy, to derive pleasure, is not only the privilege, but the duty of man. Not to have experienced a particular form of pleasure means to have tolerated a vacuum in one's existence, to have failed in the human mission of tasting of every cup of joy passed at the banquet of life.

Hedonism

Connected with this hedonism is a positive ethical moment: respect for the integrity and sensitivity of one's partner, his or her autonomous right to self-development and self-expression. Jews can have little argument with this principle. Its emphasis on not injuring anyone, on protecting the interests and integrity of the personality of the other, on the Kantian teaching that man is an end and not a means, is something which needs constant reiteration in our depersonalized technopolitan society. It is not that Jews have never heard of this idea before—it is ingrained in the very fiber of Judaism—but it never hurts to be reminded of our own moral obligations by the noble impulses that grace others. Those who are uncompromisingly committed to the moral code

of the Halakhah know that Halakhah, like any code of law, may inflict injury upon individuals.⁵ Such casualties are inevitable for the greater good to be attained by society (or, in our case, the Jewish people) as a whole. Nevertheless, it is our ethical duty to mitigate any such suffering which results from the practice of Halakhah. Such was the motivation of Jewish Talmudic scholars of all generations in their orientation to the problems of the *Agunah*, as one example. It behooves us to rise to new levels of moral courage to discover genuine halakhic remedies for similar and new problems that afflict our particular generation.

Now situationalists—the theoreticians of the New Morality—have attempted to dissociate themselves from the charge of hedonism. Thus, Joseph Fletcher,⁶ one of the leading spokesmen for situational ethics, attributes a naturalistic hedonism, opposed to the Christian ethic, to Hugh Hefner's doctrine of promiscuity and its celebration of "fun." Hefner maintains that any action is unobjectionable if no one is *hurt* thereby, whereas Fletcher demands of every action that it "help" somebody. Unfortunately, however, a mere epigram is simply not adequate to defend situationalism against the same charge. First, the terms "help" and "hurt" do not exhaust all alternatives in sexual conduct. Could—indeed, would—Fletcher argue that sexual behavior which neither hurts nor helps (and this is a large area by any standard) is unethical from his point of view? That would be tantamount to permitting an ascetic substratum to creep in under his love-centered ethic. Second, the word "help" is notoriously capable of an infinity of self-serving interpretations. The same criticism has been offered by a number of writers of Fletcher's (and others') fixation on "love." James M. Gustafson is right when he declares that, for all Fletcher's efforts to avoid the charge of hedonism, he ends with an egocentric self-expressionism or an unsophisticated self-realizationism.⁷

For all its nobility, this as-long-as-you-don't-hurt-anyone morality threatens to undermine the whole structure of morality as we know it, and to destroy the family as the fundamental collective unit upon which society is based. The negative rule of not-hurting-anyone-else is bound to become the sole normative

criterion for all legal codes in the Western world. (The situation-alists' emphasis on "love" cannot, by its very definition, be legislated.) Thus, adultery and homosexuality will be legally permitted where both parties consent—and are of the age of consent—and no third party is injured thereby. And what becomes legally permissible tends to become the moral norm as well for society at large.

Perfectionism

A second element, to which we referred earlier, must be kept in mind. The New Morality is of one piece with the rest of contemporary nihilism which, as has recently been suggested,⁸ is a moral protest against a hypocritical society. The modern's sense of justice is outraged. By what right do we dare to frustrate the emotional and physiological expression of a human being because of some abstract code of sexual inhibitions, when untrammelled sexual expression would injure no one? Where is the fairness in imposing a double standard in sexual morality which disadvantages women? How can society demand of its younger members that they abide by a code which is honored by their elders more in the public pieties they utter than in the private lives they lead? An extreme skepticism is thus combined with a zealous moral perfectionism to produce the New Morality: a nihilistic immoralism powered by a pathological moral impulse, which is in turn doubtlessly abetted by the primitive libidinal desire to throw off all inhibiting factors and accept all allies in this self-liberating campaign.

It is the presence of these two moral aspects that commend the New Morality as worthier of our attention than a merely mindless moral laxity that happens to be vocal in its self-assertion. Indeed, it is largely this consideration, plus some inevitable sociological factors, that have not only introduced the problems raised by the New Morality to serious religious leadership, but in many cases forced the representatives of old and established religious traditions radically to revise their inherited codes and, in effect, to incorporate a good deal of the New Morality into

their stated church policies, and to search out theological justifications for these changes.

RELIGION AND THE NEW MORALITY

It is one such effort that stands out as particularly important in its integrity and openness. It is a major endeavor by an official Christian body to come to grips with the New Morality, both theoretically and practically, and to listen sympathetically to the criticism of the established moral traditions of the Western world. The Christian statement to which I refer is an authoritative document, *Sex and Morality*, cogently formulated and responsibly presented in October 1966 as the Report by the Working Party to the British Council of Churches. It is deserving of serious attention and criticism by Jews concerned with society's changing moral patterns with which they are confronted and which will, no doubt, profoundly affect the Jewish community.

There are certain features of this report that speak highly in its favor. It is certainly not propaganda. It sets out to understand, not condemn. It is a thoughtful and analytic document, distinguished by a refreshing open-mindedness. It states its conviction that many questions do not admit of any precise "answer."⁹ Now that is all to the good and deserves commendation—although one recalls, in reading the Report, what Lionel Trilling once said: "Some people are so open-minded their brains fall out . . ." One may add—even if the brains remain in, the moral walls may collapse.

Antisexualism

From a purely parochial point of view, Jews can warmly applaud certain parts of this Report. Thus, its rejection of early Christian antisexual attitudes brings it close to classical Jewish views. Judaism never accepted the severely antisexual views of early Christianity, especially of the first four centuries. The patristic writers regarded sex as an enemy of the spirit, and woman as the mediatrix of damnation. Christians were urged to renounce Eros and Venus, to flee from sexuality as a hindrance

to salvation. Jerome was particularly inclined to the Manichean dualism which pitted body against soul; Origen castrated himself in a literal attempt to make himself "a eunuch for the sake of the Kingdom of God." While Jewish sources show a variety of attitudes toward sex and sexuality, surely such extremes are clearly unacceptable. Of course, one must be charitable to the Church Fathers, and this becomes much easier from a historical perspective. The world of late antiquity was that of a declining culture marked by a sense of doom and a sterile and feverish eroticism. It was as a reaction against the brutal lasciviousness of the pagan world in the waning years of the imperial Graeco-Roman civilization that the Church Fathers developed their ascetic antisexualism, based upon the Gnostic and Manichean dualisms.¹⁰ But this attitude survived the death of the pagan licentiousness against which it rebelled, and remained as a distinguishing characteristic of classical Christianity. Our Report now rectifies this imbalance by rejecting these early antisexual attitudes and accepting the nature of human beings as a complex psycho-physical unity rather than as a bifurcated one, in which body and spirit are locked in eternal strife. Unfortunately, this is vitiated by a certain typical Christian lapse of objectivity, crediting Jesus with ending "the fatal dualism of flesh and spirit."¹¹

Legalism

Jews will have to exercise an even greater measure of Jewish charity and forgive the offensiveness of the Report when it unthinkingly falls back on other old Christian canards, comparing the Pharisees unfavorably with Jesus. Thus the invidious comparison of Jesus' moral teachings "with the 'code-morality' of the Pharisees, and also his concentration on motives and ideals of character rather than on external conformity."¹² Such pejorative over-simplifications for the purposes of confessional self-gratulation are not only unjust, they also are unenlightening. Obviously the authors were ignorant of the "Pharisee" principle that in many ways immoral thoughts are worse than immoral acts;¹³ of the blessing to be recited after the first conjugal act; of the Kabbalists' insistence upon pure thoughts during the act of coitus;

of the Talmud's enjoining a man from marrying his bride without first seeing her, lest he discover her to be unattractive to him and thus violate the commandment "Thou shalt love thy neighbor as thyself."¹⁴ So must we forgive such coarse statement as the Report's reference to "restrictive or crude moral rules found in the Old Testament."¹⁵

While such nefarious contrasts between Christian love and Jewish legalism and severity are as old as the history of Jewish-Christian polemics, it is precisely the New Morality that has disinterred them and attempted to give them new life. Once again, in new guise, the Halakhah is declared the villain—loveless, stifling, inhuman—and Christian love comes to the rescue. Thus, to move for a while to the more sophisticated exponents of the New Morality, Joseph Fletcher bemoans the death of prophetic pathos and ethos at the hands of the "pilpulistic Rabbis" of the Talmud who piled up rule upon rule in their statutory and legalistic hair-splitting. "Any web thus woven sooner or later chokes its weavers. Reformed and even Conservative Jews have been driven to disentangle themselves from it. Only Orthodoxy is still in its coils."¹⁶

As opposed to this Jewish legalism, Fletcher declares that "*Christian* situation ethics has only one norm or principle or law" and that is love—which is always good and right, regardless of the circumstances. All other laws or rules are only contingent, and are valid only if they happen to serve love in any situation. That there are any other unwritten and immutable laws of heaven is regarded by Fletcher, agreeing with Bultmann, as an "idolatrous and a demonic pretension."¹⁷ The New Morality thus contrasts its love ethic to the law ethic of the old morality.¹⁸ Situationalism maintains that it travels down the middle road, between the extremes of antinomianism and legalism.

Now, "legalism" has been correctly defined as the idea that conformity to the law is a necessary and sufficient condition for morally good action.¹⁹ Clearly, for anyone with the slightest acquaintance with the Jewish tradition, this removes the stigma of legalism from the Halakhah. Judaism has always regarded halakhic conduct as necessary—but not as sufficient. This is seen

in two ways. First, law as such is seen as only one of the necessary "pillars" of existence. R. Simeon b. Gamaliel taught: "The world rests on three things: on law, on truth, and on peace."²⁰ Second, the Halakhah itself demanded that the halakhic norm be transcended, that the law be taken as the minimal index of good conduct, not its totality. Reference to any standard compendium will yield numerous examples of the rabbinic insistence upon moral conduct in specific situations in excess of what law demands. Thus, the well-known statement of the Rabbis of the Talmud attributing the destruction of Jerusalem to the tendency to act upon the basis of *din* or law alone, rather than *lifnim mishurat ha-din*, beyond the requirements of law.²¹ Similarly, the Talmud records a rather unusual verdict by the great teacher, Rav. He was asked, "Is that the law?" His answer: Yes, as it is written, "that thou mayest walk in the way of good men, and keep the paths of the righteous" (Prov. 2:20).²² Law is a necessary but not sufficient condition for moral conduct; goodness and righteousness often require more than the law demands.²³

Not only is "legalism" irrelevant to the Halakhah, but the basic moral philosophy attributed to legalists by situationalists does not necessarily apply to the Halakhah. Fletcher has written that the dispute between legalists and situationalists turns on whether the qualities of right and wrong are intrinsic or extrinsic. Legalists or absolutists view morality ontologically, holding moral laws to be an inherent, intrinsic quality, whereas situationalists or ethical relativists view morality existentially, holding that the rightness or wrongness of an act is extrinsic and contingent. The problem may be traced back to the old nominalist-realist debate. "Old Moralists" will agree, says Fletcher, with Thomists and other realists that morality is intrinsic, whereas New Moralists are nominalists and, with Occamists, consider morals to be extrinsic.²⁴ One easily infers from this that the Halakhah—and "pharisaic code-morality" is, after all, considered an exemplary form of "legalism"—is in the same corner with Aquinas, the Catholic metaphysicians, and Karl Barth in holding that morality is connected with being, that evil is "real," an objectively given

de rerum natura in such categories as adultery, abortion, or, for that matter, any major moral infraction.

Halakhic Law and Morality

It is, however, questionable whether the Halakhah can be justly burdened with an unqualified ontological morality. This is not the place to treat exhaustively the whole issue of the conception of Biblical law and morality by the Talmudic Rabbis; that would take us too far afield. But certain points ought to be raised which will at least render arguable the situationalists' easy assumption that Judaism, along with the rest of the "old morality," can be categorized as legalistic and intrinsicalist.

An intrinsicalist would argue, as we have said, that goodness or evil is connected with being itself, that it is an ontological property. There is a prominent opinion amongst the Rabbis, however, that implicitly denies this assumption. Referring to the law that forbids the Jew meat from an animal not slaughtered according to exact prescriptions, they said: "What difference does it make if an animal is slaughtered from the throat or the neck or in any other way? The commandments were given in order to purify people."²⁵ The object of Biblical legislation was to train man, to discipline his character, to restrain his passion and inculcate moral qualities in him. The objective act, in and of itself, however, is neutral, neither good nor bad.

The basic non-fixity of the Halakhah, its very pliability at the hands of the much maligned *pilpul*, is in itself a symptom of the extrinsicality of law. Rav maintains that in order to qualify for membership in the Sanhedrin, a candidate had to be able to prove, from Biblical sources, the ritual purity of *sheretz* ("swarming" or "creeping" creatures—explicitly declared impure by the Torah).²⁶ Rav, and according to another version Ravina, attempted to do just that, although the Talmud declares their efforts to have been unsuccessful.²⁷ R. Meir was praised for his ability to demonstrate the ambivalence in the law; he was so profound that his colleagues could not follow him, and therefore the halakhic decisions usually went against him.²⁸ The Rabbis of the Jerusalem Talmud were less tolerant of such casuistry. They con-

sidered a student of R. Meir, who was reputed to be able to offer one hundred reasons to purify the impure and the reverse, as one who did not receive his Torah from Sinai, i.e., he was not authentic.²⁹ What motivated the Rabbis to recommend extraordinary intellectual agility was not a preference for casuistry as a skill per se, or a desire to grant maximum freedom to the judge in deciding the law, but an awareness of the nominalist character of the law and hence the necessity to deal with it by means of casuistry. One of the leading commentators on the Bible makes use of this fundamental equivocation to explain the authority granted to the Sanhedrin by the Pentateuch.³⁰ Were the law completely intrinsic and ontological, there would be no place left for rabbinic innovation. What emerges, therefore, is a feeling of a nominalist rather than a realist approach to law in the very Halakhah that is supposed to be the epitome of legalism. (We do not distinguish here between law and morality because, as will be evident shortly, of the intermingling of both categories in the statements of Yalta and Maimonides.)

Of course, we must take care not to overstate the case for an extrinsicalist conception of the law in Judaism. There are certain acts that appear to be, in and of themselves, obnoxious and repulsive, requiring no rational support to characterize them as evil.³¹ It has been suggested that the Biblical terms *tamei*, unclean, and *to'evah*, an abomination, designate such a category of the disgusting and degrading.³² Nevertheless, the weight of evidence seems to point in the opposite direction. Thus, Yalta commented to her husband, the Amora R. Nahman, that whatever the Torah forbade, it explicitly permitted something quite similar to it. Some examples are: blood was prohibited, but liver, from which the blood cannot be completely extracted, is permitted; menstrual blood is impure, certain other kinds of vaginal bleeding are not; certain parts of the animal are forbidden, others very similar are permitted; and so for certain categories of forbidden marital relationships and forbidden foods.³³ What she apparently means to say, with the approval of the Talmud, is that the forbidden objects or acts are not intrinsic and ontologically evil, but are norms directed at man for his own sake. The per-

mission to partake of similar substances or commit similar acts marks the original prohibition as subjectively oriented, as extrinsic.

In Chapter VI of his *Eight Chapters* (the Introduction to his Commentary on the Mishnah, tractate *Avot*), Maimonides attempts to reconcile the apparent conflict between the "Philosophers" (Aristotle) and the Rabbis as to the identity of the ideal ethical personality. The Greeks held that the *Hasid*, the saint, is superior to the *Moshel Benafsho*, the man who achieves self-control. One whose inner instincts respond to good and evil naturally is to be preferred over one who must struggle with his passions and curb them in order to lead the good life. The Rabbis, according to Maimonides, held the reverse to be true. Maimonides' solution is to declare that both agree, depending upon what category of morality is being discussed. There are certain norms which are intrinsic and universally acknowledged; here all will accept the *Hasid* as the ideal type. There are others which neither intuition nor reason commend, but are forbidden by divine command; here it is best to refrain from such deeds not because of habit or taste, but solely because of submission to the will of God—and the *Moshel Benafsho* excels.³⁴ Sexual offenses are included by Maimonides in the latter category; they are not intrinsically evil, but are declared so by divine fiat. For both Maimonides and Saadia (who first introduced the dichotomy between two types of law), therefore, there are some laws that are intrinsic, and some that are extrinsic.³⁵ No generalization is permissible which declares Halakhah legalistic and then, by a syllogistic sleight of hand, pronounces it intrinsicist, realist, ontological.

Hedging

Let us now return to the Report and its attempt to formulate a formal Christian acceptance of the major premises of the New Morality. We cannot in good conscience fail to accuse the authors of *Sex and Morality* of quite a serious charge: that of being mealymouthed. At the crucial point in the development of their thesis, they lose their courage. Daring analysis gives way

to a failure of nerve disguised as pious liberalism. They want to please everybody, and succeed in satisfying nobody. Only a few examples, among many that can be offered in evidence, will suffice.

On the question of moral rules, we are told: "It is *possible* to make motive and character the primary subject of moral judgment, while *also* giving great weight to the value of a sound moral code. . . . It *may be held* that the rules of abstinence before marriage and fidelity within it" are universally valid.³⁶ Is this the reaction of a great historical religion to the moral dilemmas of an age? Is it not possible to find a middle ground between authoritarian *ex cathedra* pronouncements and the pitifully detached conjecture of the professor of comparative religion?

Or note the hesitancy and the diffidence in the following apologetics as the authors genuflect before the gods of cultural relativism: "We cannot imagine any circumstances in which it would be right to tolerate *all forms* of homicide. If this is so, there need be no inconsistency in claiming that certain rulings concerned with sexual conduct represent permanent moral insights, without being committed to a belief in the fixity of moral rules in general."³⁷ The circumlocution reflects a lack of conviction, a fatal flaw in a document of this kind.³⁸

But if this be considered primarily a stylistic or literary criticism, which it is not, let us point to the two major conceptual items that disqualify the conclusions of this Report from consideration by Judaism as an adequate religious conception of sex morality.

Where Is God?

The first decisive weakness of the Report is that it is fundamentally not a religious document at all; it is stamped throughout by a capitulation to a secular humanism. Quite plainly, one looks in vain in this Report for God—the God who demands and judges as well as the One Who benevolently rewards His children who entertain good, especially liberal, intentions. Thus, some members of the group of authors would like to leave individual moral issues to personal decisions, adding that ". . . the liberty

claimed is compatible with a responsible attitude to *society at large*."³⁹ Now it certainly is noble to feel responsible to society at large, but is there no God in the world to whom man ought feel responsible? Does not religion consider that society itself must answer to Him? Or has the British Council of Churches in effect signed His obituary?

The humanistic bias of the Report is evident in the utilitarian criterion for moral action. Whether "free love" between adults is moral or not depends, according to the authors, on whether it "involves . . . damage to the individual or to society."⁴⁰ Not surprisingly, the Report holds that "the knowledge of contraception should not be withheld from minors and the unmarried."⁴¹

What has happened, apparently, is that the authors have accepted the truly *ethical* element in the New Morality, the emphasis on personality and personal relationships, and this has been declared sufficient unto itself in its rejection of the rest of normative *morality*.⁴² This is, in essence, the acceptance of situational ethics or contextual morality: when the general norm threatens to thwart my personality—its unfolding, its development, its integrity—then I lay aside the law as inapplicable to me in my particular situation. But who is to determine whether my reluctance to accept the moral rule issues from the autonomy of my person or the satisfaction of my passion? Obviously, no law, whether divine or human, is relevant here; and conscience is notoriously fallible when convenient rationalizations are easily available.

Matters do not change if we substitute for this self-realization the love-centered ethic of Fletcher (who, incidentally, has been accused of failing to establish that love is the exclusive point of reference of Christian ethics).⁴³ Love, as it is used by Fletcher, is a feeling, not a behavioral mode. It is considered as something that accompanies conduct, not a factor in it. Love, in this dualistic conception of the New Morality, refers to a private, interior world that is not necessarily identical with one's public, physical life. But then Father McCabe is right in posing to the New Morality the kind of question that a post-Wittgenstein critic might offer to any philosophical dualist: if there is no public

criterion by which to recognize at least the absence of love, how shall we recognize it at all?⁴⁴ In more practical terms, if love is determinative, and love is so thoroughly subjective, who is to tell when it is authentic or just an illusion thrown up from within the psyche to give respectability to base passions? The moral philosopher must here ask the same question so often asked by young girls approaching marriageable age: "How will I know that I truly love him?" Mother's answer—"You'll just *know*, darling"—is simply inadequate as the foundation of all ethics.

It is here that the Report fails as a *religious* document. It confuses humanistic existentialism expressed in religious vocabulary with an authentic religious stand. It has de-theocentricized all of life, and particularly sexual morality. The religious Jew cannot accept this. With all our concern for man and society, the goal of life is holiness, and the reason for this is *imitatio Dei*: "Ye shall be holy, for I the lord your God am holy."⁴⁵ Certainly *bios* is inadequate, and we must strive for *humanum*; but *humanum* alone is insufficient without *divinum*: "Thou shalt love thy neighbor as thyself, *I am the Lord*." That is why we can and ought feel profound sympathy (to use the two cases cited in the Report) with the young man who wants intercourse with an "understanding woman" in order to allay his anxieties about his potency, or with a woman married to a near-impotent or homosexual husband who craves "occasional satisfaction, without complications, outside marriage."⁴⁶ But we can never condone such *actions* as anything less than corrupt and polluting. It is only by cutting themselves off from their theistic roots and adopting an exaggerated anthropocentric morality that the authors can suspend their judgment in such cases and, to compound the injury, add the piddling afterthought that "the phrase 'without complications' overlooks the fact that intercourse can lead to all sorts of complications."⁴⁷ (This is, in effect, a gesture of approval to *Lady Chatterly's Lover*.) Judaism, however, has declared such unchastity—for that is certainly what it is—so grave an offense that one should rather submit to death than violate it, even if one needs it for therapeutic reasons.⁴⁸

"Meaningful Personal Relations"

This capitulation by theologians to nontheistic interpretations of moral codes is not confined to theoretical expositions such as those in *Sex and Morality*. In a less sophisticated but more immediate manner, this tergiversation of the clerics came forcibly to public attention during 1967-68 in widely publicized stands taken by the Jewish and Protestant counselors to Columbia University students on the controversy surrounding a male student and a Barnard coed, both unmarried, who, in defiance of university regulations (in the polemics hardly anyone mentioned the violation of moral standards), shared an off-campus apartment. This convenient system became known as "The Arrangement" (a term already obsolete in the breathlessly rapid turn-over in the semantics of our contemporary moral revolution), and its virtues were extolled widely as enabling participants to find "meaning in life," to reject the "hypocrisy of their parents," and to pay better attention to their studies. (The writer, being a square over the age of thirty, is both culturally and chronologically disqualified from commenting frankly on these profound arguments.) The reaction of the Jewish chaplain is, though trivial and of no importance in itself, interesting as a pathological symptom of how far far-out liberalism has gone. "The crucial question," the press reported his sage observation, "is not that students are living together, but whether or not the relationship is meaningful and worthwhile." Here again we find a secularized moralism leading to immorality: "Meaningfulness" excuses all else. (But what does "meaningful" mean? And "worthwhile" to whom? To two 18-year-olds overcome in a moment of passion? To yesterday's high-school students breathing their first air of freedom? To their parents? To their future happiness?)

There is a psychological underside to this "rabbinic endorsement" for the campus' enthusiasm for an end to rules and inhibitions. "The Israelites knew that idolatry is insubstantial and empty; but they worshipped the idols in order to secure a dispensation for their public immorality."⁴⁹ When the ancient Israelite was overwhelmed by lust, he did not merely indulge

his passions—his feeling of guilt would have been too great—but he declared himself a communicant in the idolatrous cult. He was therefore able to participate in the obscene rites respectably, that is, with “religious” sanction.

I suspect that this support by the chaplains, this ritualistic incantation of “meaningful personal relations,” and this very high-minded excitement with a moral system that removes most moral prohibitions, are tranquilizers for a vestigial conscience aroused by an excess of non-restraint. They are a *hekhsher* for what one intuitively knows is *treif*. Non-morality becomes more palatable to one brought up in a religious atmosphere if it is presented as a New Morality. The chaplains have lent themselves to an unworthy task and, in the process, revealed the bankruptcy of the moral relativism showing underneath their ecclesiastical cloaks. Yet such endorsement is truly superfluous; no one on campus really cares what these religious counselors say. In a few short years, college students have by-passed the New Morality. “The Arrangement” is not a gesture of defiance, not the institutionalization of a revolutionary sexual ethics, but the practical consequence of a thoroughgoing indifference to any and all moral considerations. This is perhaps the ultimate irony: religious folk giving up their most sacred principles in order to appeal to those who couldn’t care less; stewards of great religious traditions performing a theological strip-tease for an audience that is probably amused, possibly entertained, but certainly not attracted; spiritual mentors, hurt to the quick by stinging criticisms of their hypocrisy, who try to come clean by throwing in the towel.

Antinomianism

We now turn to another Jewish criticism of this “religious” variety of the New Morality, namely, that it reveals an atavistic antinomianism. There is in this report a return to the Pauline polemic against the Law (Torah) via the uncertainties of situational ethics. To adopt two rules “which would, we believe, at present rule out *most* of the extra-marital intercourse which actually occurs,”⁵⁰ is in effect to abandon all rules. The state

ment that "love is the only rule imposed by Jesus" is an invitation to moral lawlessness sanctioned by good intentions. Such antinomianism is only too well known to Jews from the catastrophic chapter of Jewish history written by the pseudo-Messiahs, Sabbatai Zevi and Jacob Frank. For all Dr. Fletcher's attempts to monopolize the middle of the road between legalism and antinomianism, he in effect functions as an antinomian even while criticizing it—an apparently inevitable result of the New Morality's situationalist love-centered ethic.

More recently, another group of Christian clerics demonstrated just how far down the road to sanctified, respectable degeneracy this principle of "love is the only rule" as an operative principle of ethics and morality can take us. Elsewhere,⁵¹ I have presented what I believe is a valid Jewish reaction to the views announced by a group of ninety Episcopalian priests in New York in November 1967 on the problem of homosexuality. A large majority of the priests held that homosexual acts should not be dismissed as wrong *per se*.⁵² Such acts "between two consenting adults should be judged by the same criterion as a heterosexual marriage—that is, whether it is intended to foster a permanent relationship of love." A homosexual relationship "can be as fulfilling or as destructive as heterosexual ones." I do not wish to repeat here the arguments against this view. What is of special importance, however, is that the clear and unequivocal Biblical abhorrence of *mishkav zakhur* is compromised on supposedly ethical grounds and with religious sanction. "Love, fulfillment, exploitative, meaningful"—the list itself sounds like a lexicon of emotionally charged terms drawn at random from the disparate sources of both Christian and psychologically-oriented agnostic circles. Logically, we must ask the next question: what moral depravities can *not* be excused by the sole criterion of "warm, meaningful human relations" or "fulfillment," the newest semantic heirs to "love?"

There cannot, of course, be a morality based on motives alone; there must be rules. Even the Karaites, who rejected the Halakhah, had to develop a halakhah of their own. So what the British Report attempts is to eat its cake and have it too. It de-

molishes the normative basis of morality, pushing "code-morality" out of the front door, and then invites it in by the back door. It wants all the advantages of a halakhic approach without a Halakhah. Thus, its remarkable plea for living by the rules without having rules: ". . . every action, no matter how private, has some repercussions on society sooner or later. Thus, it can be argued that even an engaged couple are doing a disservice to society if they 'anticipate marriage' . . . To weaken the rule may well encourage free sexual intercourse between the unmarried, and ultimately increase the incidence of promiscuity and adultery."⁵³ Despite all the polite hesitation and the courteous restraint, the rationalization does not come off. A young man in a situation of temptation, were he confronted by such an argument, would simply shrug his shoulders and say, "So what?" And indeed, in terms of the Report itself, So what?—and why not?

Jewish morality would, for better or worse, not hesitate. Its verdict is clear: no excuse for a man to have "intercourse with his betrothed in the home of his father-in-law." The first blessing at the Jewish ceremony speaks of the prohibition for engaged couples to engage in sexual intercourse (and *erusin* is far more binding than "engagement"). Perhaps this is a rule that is widely violated. But the validity of a moral principle is not determined by a vote. There is a world of difference between morals and mores.

CONCLUSION

What conclusions can we draw from this Report? Its analysis is, I believe, invaluable; its solutions, such as they are, are almost valueless. This Report, if accepted, will signify the building of the church's moral edifice on shifting sands which will ultimately bring the whole structure down. Jeremiah's complaint, in Lamentations 2:14, seems disturbingly and hauntingly relevant.

For us Jews, life will become more difficult, in the realm of sexual morality as in everything else. The problems affecting the non-Jewish community affect us with equal poignancy. The originator of the unfortunately accurate maxim, "wie es sich

christelt, so judelt sich," was not Heine but R. Judah he-Hasid of medieval Germany. And his statement (*Ke'minhag ha-notzrim ken minhag ha-yehudim*) was made specifically about sexual matters.

If this Report and the kind of morality it espouses should ultimately become the policy of most of Protestantism, and if the avant-garde liberals in the Catholic Church should gain sufficient momentum, and if, as seems likely at the time of this writing, some Jewish groups, too, should declare for major "revisions" of the Jewish moral code, it is quite conceivable that religious Jews will be left alone, as they were in the ancient past, alone to proclaim the Word of God to an unredeemed world in matters of marriage and morality. Unquestionably this will increasingly polarize the Jewish community, accelerating the centrifugal forces which will make the assimilationists even more aggressive in rejecting Jewishness, and intensifying the centripetal currents which will force the segregationists to withdraw even more apprehensively, and with greater justification, from the general society and turn their backs on the world in an attempt to preserve what precious little is left to us of a sacred and magnificent tradition. It will make more difficult than ever before the attempt to remain in and with the world and yet keep our ideals and principles intact.

No matter what new strains will be imposed on the Jewish community as a result of this religiously sponsored permissiveness, and no matter what approaches may emerge in order to keep the two—Judaism and general society—from flying apart, committed Jews will have to bear a great burden. It is a double burden: to keep alive and whole the Jewish heritage of personal and public morality, and to keep challenging the conscience of the Western world until it shall have passed through this period of doubt and darkness. One can only hope that the Christian churches, heretofore the guardians of the moral heritage common to the great monotheistic religions of the West, will reconsider what appears to be their imminent capitulation to a triumphant moral nihilism which may yet bring down all of civilization.

NOTES TO CHAPTER IX

1. J. T. *Taanit* 3:4.
2. See Saadia, *Emunot ve'Deot*, 3:1, who considers the rational basis of the Bible's moral prohibitions the preservation of the family structure. Cf. *Yoma* 9a.
3. Monfred Harris, "Reflections on the Sexual Revolution," *Conservative Judaism*, Spring 1966, p. 4.
4. Hans Jonas, *The Gnostic Religion*, pp. 270-277.
5. Maimonides, *Guide for the Perplexed*, 3:34 (following Plato, *Laws*, p. 875). See R. Isaac Arama, *Akedat Yitzhak*, No. 43.
6. Joseph Fletcher, "Love is the Only Measure," *Commonweal*, January 14, 1966, p. 431.
7. James M. Gustafson, Letter to the Editors, *Commonweal*, February 18, 1966, p. 582.
8. Michael Polanyi, in the interview in *Psychology Today*, May 1968.
9. *Sex and Morality*, p. 54.
10. See V. A. Demant, "Chastity in Christendom," in *An Exposition of Christian Sex Ethics*, Hodder and Stoughton (London: 1963), pp. 26-42; Jose De Vinek, *The Virtue of Sex*, Hawthorn Books (New York: 1966), Part I, pp. 17-69.
11. *Sex and Morality*, p. 44.
12. *Ibid.*, p. 19.
13. *Yoma* 29a.
14. *Kiddushin* 41a.
15. *Sex and Morality*, p. 20.
16. Joseph Fletcher, *Situation Ethics*, The Westminster Press (Philadelphia: 1966), p. 19.
17. *Ibid.*, p. 30f.
18. Fletcher, *Commonweal*, loc. cit., p. 429.
19. See Herbert McCabe, "The Validity of Absolutes," *Commonweal*, January 14, 1966, p. 432ff.
20. *Avot* 1:18.
21. *B.M.* 30b.
22. *B.M.* 82a.
23. The subject is quite extensive. One of the best treatments is in Rabbi Isaac Herzog's *The Main Institutions of Jewish Law*, Soncino (London: 1965), Vol. I, pp. 381-386.
24. Fletcher, *Commonweal*, loc. cit., p. 429f.
25. Gen. R. 44; M. Tanhumah, *Ki Tazria*, 5.
26. *Sanh.* 17a. Cf. J. T. *Sanh.* 22a and Mid. Ps., 12, p. 108.
27. *Ibid.*, and *Eruvin* 13b.
28. *Eruvin* 13a.
29. J. T. *Sanh.* 4:1.
30. R. Ephraim Luntschitz, *Keli Yakar* to Deut. 17:11. See too R. Samuel Uceda, *Midrash Shmuel* to *Avot*, end Chap. V. These passages reveal a philosophical judgment on the nature of the law itself, rather than the advocacy of a halakhic technique which is more judge-centered than text- or codex-centered. Nevertheless, a nominalist and extrinsicalist approach to Halakhah does prepare the way for granting more freedom to the judge to consider individual circumstances rather than forcing him to rely on precedents and generalized codes. The latter tendency in the history of Halakhah has been described by Prof. Menahem Allon in "הגות והלכה," ed. Yitzhak Eisner,

Dept. of Education and Culture (Jerusalem: 1968), pp. 109–112. On the polarity within the halakhic process itself as a way of reconciling conflicting needs, see Emanuel Rackman, *One Man's Judaism*, Philosophical Library (New York: 1970) pp. 203ff.

31. Saadia introduced the term *sikhliot*, rational commandments, for such laws, contrasting them with *shimiyot*, revelational commandments. By "rational" he meant that they commend themselves to reason. Maimonides, however, regarded such nomenclature as "a sickness of the Kalam," preferring to confine the term *sikhliot* to commandments of rational or theoretical content, such as the commandment to believe in God (*Eight Chapters*, chap. VI). Nevertheless, he continued to use this terminology because it had been widely accepted. For Maimonides, then, those noncognitive commandments which are not *shimiyot* may be said to include primarily those moral laws to which man responds instinctively and intuitively. This intuitionism is expressed by the Rabbis as "laws which the Evil Urge does not challenge," i.e., they are unassailable and absolute. New Moralists deny the existence of such a category. For Fletcher, as stated, there is only one absolute law, and that is love. McCabe (*loc. cit.*) writes that one exponent of New Morality has claimed that it could be an act of love to kill 100,000 people with an atom bomb. Does this perhaps suggest that the New Morality is symptomatic of a psycho-cultural aberration which blinds its victims to self-evident truths, and for which "love" is the convenient rationalization?

32. Herold S. Stern, "The Ethics of the Clean and the Unclean," *Judaism*, Fall 1957, pp. 319–328. However, the Rabbis did not recognize this point in establishing their categories of intrinsic-extrinsic laws. Thus, dietary proscriptions which the Pentateuch labels *to'evah* are accepted as extrinsic by the Rabbis (Sifra to *Kedoshim*; and *Yoma* 67b). However, one may argue that the rabbinic view in these passages does not necessarily call for a nominalist interpretation, but that one should train himself to act not primarily out of a sense of unthinking revulsion, but out of a conscious and deliberate desire to submit to the divine commandment. The Biblical category of *to'evah*, though it is a primary reaction, related to a sense of personal dignity, can be controlled—learned or unlearned; see Deut. 7:26 and Deut. 23:8.

33. *Hullin* 109b. The Zohar makes similar comments on the Ten Commandments; see my *The Royal Reach*, Philipp Feldheim (New York: 1970), pp. 59ff.

34. See *supra*, n. 31, on Maimonides' terminology.

35. Maimonides' opinions in the *Eight Chapters* should be compared to his later writings, especially the *Guide for the Perplexed*. In the *Guide* (1:2) he contrasts the categories of *muskalot*, judgments derived from intellectual activity, and *mefursamot*, those that are based on common consent of society. The former are a question of true/false, whereas the latter are expressed as beautiful/ugly. Maimonides equates *tov va-ra*, good/bad, with the esthetic criterion. It is not clear, however, whether Maimonides includes ethics with esthetics or with intellectual judgment. Julius Guttman (in his commentary on his abridged edition of *Maimonides: The Guide of the Perplexed*, trans. Chaim Rabin, East and West Library [London: 1952], p. 207) maintains that Maimonides here follows Aristotle, that the principles of ethics are to be looked upon as opinions held by general consent, not as part of the realm of intellectual knowledge to which one can apply the criterion of true/false; accordingly, all ethics for Maimonides would be extrinsicist. Yehudah Even Shmuel (Kaufman), however, holds that Maimonides defines *tov va-ra* as esthetic terms only, and would include ethical rules in the category of *muskalot*; in that case,

moral principles are intrinsic and ontological (see his edition of the *Moreh Nevukhim*, Mosad Harav Kook [Jerusalem: 1935], vol. I, p. 51).

36. *Sex and Morality*, p. 27; italics are mine.

37. *Ibid.*, p. 20; italics are mine.

38. Traditional Jewish writers on sexual conduct were aware of changing customs and mores, and yet unabashedly reaffirmed "the fixity of moral rules." Cf., for instance, the opening paragraph of that classic little volume, "*Hupat Hatanim*," by R. Raphael Meldola (1754–1828), who was university-trained and *au courant* with the worldly thinking of his time.

39. *Sex and Morality*, p. 29; italics are mine.

40. *Ibid.*, p. 30.

41. *Ibid.*, p. 58.

42. I am arbitrarily distinguishing between *ethics* and *morality* by considering the former as consisting primarily of man-to-man relationships which are only derivatively offenses against God, whereas the latter is primarily a sin against God, but one which requires the participation of another person.

43. *Supra*, n. 6.

44. *Supra*, n. 19.

45. *Lev.* 19:1.

46. *Sex and Morality*, p. 60.

47. *Ibid.*

48. *Sanhedrin* 75a; Maimonides, *Hil. Yesodei ha-Torah* 5:9.

49. *Sanhedrin* 63b.

50. *Sex and Morality*, p. 55; italics are mine.

51. "The New Dispensation on Homosexuality," in *Jewish Life*, Jan.–Feb. 1968; and see the correspondence on this in the May–June 1968 issue.

52. Since then a leading Catholic theologian, Charles Curran, is reported to have taken a similar position (*New York Post*, May 1, 1968).

53. *Sex and Morality*, p. 31.

AN OLD LAW

. . . The laws of Moses as well as the laws of Rome constituted suggestions and impulses to the men and institutions which were to prepare the modern world.

——WOODROW WILSON
IN *The State*

By an old law, moreover, it becomes established that no person should be delivered up to be executed . . . or for punishment by lashes by his own confession, but only by the testimony of others. . . . Maimonides adds: "This is a divine decree."

——JOHN SELDEN (1584–1654)
IN *De Synedriis*

CHAPTER X

SELF-INCRIMINATION IN LAW AND PSYCHOLOGY: THE FIFTH AMENDMENT AND THE HALAKHAH¹

THE WIDE public attention focused on the Fifth Amendment in the recent past, and the vehemence with which it has been both attacked and defended, have prompted students of Jewish law to examine its equivalent in traditional Halakhah.² A comparison of the principle of self-incrimination, as embodied in constitutional law and in the Halakhah, is revealing on the level of both theory and practical consequence.

The embattled Amendment, with its provision that "no person . . . shall be compelled in any case to be a witness against himself," is certainly one of the most fundamental and advanced principles of Anglo-American jurisprudence. Two great legal thinkers, Dean Griswold and Supreme Court Justice Douglas, writing separately, have referred to it in identical terms: an old friend and a good friend.³ Its significance in our whole tradition of liberty cannot be overrated.

BACKGROUND

English Law

The law against self-incrimination is not found in ancient Roman law or in any of its later developments. It was not part of the Magna Carta, and was unknown in the earlier Common Law. For many centuries, a prisoner was carefully examined by the magistrate before the trial, and by the judge

and prosecuting counsel at the trial. "... During the period in question, the examination of the prisoner, which is at present scrupulously . . . avoided, was the very essence of the trial, and his answers regulated the production of the evidence; the whole trial, in fact, was a long argument between the prisoner and the counsel for the Crown, in which they questioned each other and grappled with each other's arguments with the utmost eagerness and closeness of reasoning."⁴ As a result of the English Revolution in which Charles I was executed and, as a result also of the democratic ideas of "Free-born John" Lilburne and the Levellers, and his quarrels with the infamous Star Chamber court which had been under the direct control of the King, that court was abolished by an act of Parliament in 1641. With the extinction of the Star Chamber, its system of demanding a compulsory oath of the defendant fell into disuse. The principle that no man may be forced to testify against himself began to emerge at this time. Reviewing the development of the exemption from compulsory self-incrimination, Judge Moody declared that "... it is not regarded as part of the law of the land of Magna Carta or the due process of law, which has been deemed an equivalent expression, but, on the contrary, is regarded as separate from and independent of due process, but as a wise and beneficent rule of evidence developed in the course of judicial decision."⁵ It became part of the United States Constitution as the Fifth Amendment in 1791.

Controversy

The Amendment has been invoked, questioned, attacked, and defended in the past. Even the greatest judges did not accept it without reservation.⁶ It was, however, the Communist issue that, amid the heated controversy of the McCarthy era, brought the privilege against self-incrimination to the forefront of public discussion. After a period of relative quiet, it again came into prominence when the Supreme Court's *Escobedo* (1964) and *Miranda* (1966) decisions were blamed for "crime in the streets." It was an issue in the Presidential election of 1968, and Congress has been agitated over the subject almost continuously since. Both detractors and defenders of the Court

have aired their views in the public press. This focus of attention has revealed both the strengths and weaknesses of the privilege.

On the basis of these revelations and criticisms, it is interesting to note how a similar principle, antedating the Fifth Amendment by many centuries, has been treated in the Halakhah. That this is so has not always been appreciated. Judge Moody, for instance, thought that this principle distinguished the Common Law from all other systems of jurisprudence, and that it is unique to Anglo-American law.⁷ What we shall attempt here is a comparison of the principles as such, and an investigation into the theoretical backgrounds and rationales that have been suggested for the halakhic rule.

THE HALAKHAH

The halakhic principle is contained in the formula *ein adam meisim atzmo rasha*, which means, literally, a man cannot represent himself as wicked. Most of the Talmudic discussion of this principle concerns not so much self-incrimination which results in corporal punishment as that which results in the disqualification of the confessant as a *bona fide* witness.⁸ According to Talmudic Law, two categories of witnesses are disqualified in any case requiring their testimony. The first category is composed of relatives (within a certain degree of consanguinity) of either the principals, other witnesses, or judges. The second category, called *pasul* (disqualified), includes primarily those of unreliable character (those who are "wicked"—i.e., transgressors). The halakhic ruling on self-incrimination, therefore, covers even those cases where the confession merely disparages the confessant's character to the extent of disqualifying himself as a reliable witness.

The Halakhah does not distinguish between voluntary and forced confessions, for reasons which will be discussed later. It is here that one of the basic differences between Constitutional and Talmudic Law arises. According to the Constitution, a man cannot be *compelled* to testify against himself. The provision against self-incrimination is a *privilege* of which a citizen may or may not avail himself, as he wishes. The Hala-

khah, however, does not *permit* self-incriminating testimony. It is inadmissible, even if voluntarily offered. Confession, in other than a religious context, or financial cases completely free from any traces of criminality, is simply not an instrument of the Law. The issue, then, is not compulsion, but the whole idea of legal confession.

No Presumption of Guilt

This invalidation, by the Halakhah, of all criminal confessions, obviates one of the serious problems of the Constitutional principle regarding self-incrimination. Because the Fifth Amendment formulates the principle as a privilege, to be exercised at the discretion of the accused, there is a "natural" presumption of guilt⁹ attached to the one who does invoke the Amendment. This presumption which may, of course, be completely unjustified, has given rise to the opprobrious epithet "Fifth Amendment Communist." This inference of guilt may be unfortunate and regrettable, but it is a fact, and a direct result of the voluntary character of the Constitutional principle of criminal confession. It is an inherent flaw in the entire construction of the legal concept, for it stamps with suspicion anyone who, by its use, seeks to avoid the official consequences of self-incrimination. One can mention case after case where this "natural" presumption of guilt, by an exercised public, has proved much more punitive and damaging than a jury's adverse verdict would have been.¹⁰ In the halakhic system, however, no such "natural" presumption can logically arise, since there is no "claim of the privilege" by a defendant—he is automatically presumed innocent despite himself.

This difference between the Halakhah and the Constitution in the treatment of self-incrimination is a consequence of the different rationale and development of the principle in the two systems of law.

Historically, the Fifth Amendment was born out of a reaction against the use of torture as accepted procedure in legal trials. Its espousal has historical reasons and is based on solid humanitarian grounds—the abhorrence of torture as practiced by the Star Chamber. The Amendment protects not only the

accused but society itself from the inner corruption that comes from legalizing brutality and sanctioning violence in place of good police work. It is, as Justice Douglas¹¹ puts it, "part of our respect for the dignity of man." Dean Griswold¹² calls it, simply, an "act of civilization." Judge Hofstadter considers it "an historic element in the charter of our liberties."¹³ And Judge Fields¹⁴ thinks it is too obvious to have to explain. In general, then, the rationale for the Fifth Amendment is a humanitarian and moral one, which arose in response to definite historical stimuli, and is basically negative in character—it helps eliminate brutality and torture from legal proceedings. Its genesis was an act of protest, and its character has thus been indelibly stamped on its subsequent development. It remains a powerful force against compulsion, but has virtually nothing to say on the question of confession *per se*.

The halakhic principle, however, has as its rationale certain inner and positive considerations. Its unqualified rejection of legal confession, though formulated in technical language, is based upon certain deep insights, rather than upon cumulative historical experience alone. And it therefore transcends the limits imposed on a law which comes about primarily in response to the pragmatic demands of experience.

The Talmud's technical derivation of the principle of *ein adam meisim atzmo rasha* is as follows:¹⁵ We have already mentioned the fact that according to the Halakhah the testimony of a relative of the accused, whether that testimony be favorable or unfavorable to him, is deemed invalid. The second proposition is formulated as *adam karov eitzel atzmo*, literally, a man is a relative unto himself. Hence, a man's testimony about himself is as invalid as is that of any other close relative. The Talmudic derivation is, therefore, syllogistic and, on the face of it, seems purely technical, especially since the first proposition—the disqualification of a close relative—is derived by a hermeneutic interpretation of a Biblical verse.

RaDBaZ' Rationale

Such is the formal structure assigned to the principle by the Talmud. But later halakhic thinkers felt it necessary to ad-

vance certain rationales to explain and undergird the halakhic concept.¹⁶ We shall concentrate here on the psychological theory provided by Maimonides, but first mention, briefly, the theological rationale suggested by a renowned Egyptian scholar, RaDBaZ (R. David ibn Zimra).¹⁷ All of Judaism, RaDBaZ avers, declares that the Lord, and not man, is the absolute Master of the universe.¹⁸ This ultimate title to the world includes man's life. Man, therefore, cannot dispense with his life or limb if he so wishes; he is bidden to protect and enhance his own life as well as the lives of others. His legal inability to surrender to death by means of confession in court is thus an instance of the theological principle that man must answer to God for the disposition of his life. It is worth noting that whereas Maimonides' rationale, to be discussed shortly, seeks to protect the innocent from incriminating himself, the explanation of RaDBaZ accounts for the protection even of the guilty from the consequences of confession.

Maimonides' Rationale

Maimonides offered a psychological rationale for the law invalidating confessions in Jewish law, and one that was generally accepted by later Talmudists. This theory, which can explain the halakhic but not the constitutional opinion on self-incrimination, is presented by Maimonides as follows:

It is by decree of Scripture that a *Bet Din* (a court) cannot execute or flog a man on his own confession, and can do this only on the testimony of two witnesses . . . the Sanhedrin can execute neither capital nor physical punishment upon one who confesses to a crime, because perhaps this person's mind is sick in this matter; perhaps he is one of those who are perturbed and bitter of soul, who wish for death, who pierce their bellies with swords and throw themselves off roofs. Perhaps this man thus comes and confesses to a crime which he did not commit. [But whatever the reason may be], the principle of the matter is that it is a decree of the [Divine] King.¹⁹

Freudian Insight

Maimonides' words are strikingly reminiscent of one of the major themes of psychoanalysis. For Maimonides to have offered this psychological reason for a legal principle operative in such a large area of the law, he must have intuitively sensed the fact that the propensity for suicide is much more widespread than one might believe at first sight. In this, he anticipated by some seven hundred years, albeit in rudimentary fashion, a most significant achievement of Freudian psychology.

In 1920, some twelve years after expressing his skepticism of the "aggressive instinct" as developed by Alfred Adler, Freud²⁰ elaborated his famous theory of the Death Wish or Death Instinct. This instinct, according to Freud, is part and parcel of every human being's psychological constitution. It reveals itself generally as destructiveness, in its many varied forms, and, in extreme cases, in homicide. This Death Instinct is opposed by a Life Instinct, which psychoanalysis declared to be an amalgamation of what had previously been considered to be the two major instincts of man: self-preservation and sex. The Death Instinct is a sort of "repetition compulsion," an inherent tendency of life to revert to its lifeless origin, which is the inorganic state, or death. While the Death Instinct tries to disintegrate the organism in its regression, the Life Instinct (called Eros) is that which holds all living things together. This theory "endeavors to solve the riddle of life by the hypothesis of these two instincts, striving with each other from the very beginning."²¹

Now, because of a variety of reasons, this Death Wish, originally felt towards others, is usually frustrated and as a result is redirected towards the self. At times, therefore, this Death Wish, when it reaches its ultimate expression and is redirected towards the self, appears as suicide. Suicide, then, is an introjected Death Wish. It is "turning against himself a death wish, which had been directed against someone else . . . the unconscious of all human beings is full enough of such death wishes even against those we love."²² It should be pointed out that, in addition to being an introjection of a Death Wish

originally intended for another person, suicide is frequently an abnormal means of atonement for an overwhelming feeling of guilt. In all these cases, of course, the reasons for the act are generally unknown to the person who commits it.

Beyond Freud

While it was Freud who suggested the drama of the two conflicting instincts, and the explanation of suicide as the total victory of the Death Instinct over Eros, it remained for his disciple, Karl Menninger, to develop the plot in this drama of conflict and tension. Usually, Menninger maintains,²³ there is no total victory for either the Life or the Death Instinct. When the Death Instinct is only partially neutralized by the Life Instinct, what results is a variety of forms of partial or chronic self-destruction. A great number of "accidental" cases of self-injury and self-mutilation are explained by this hypothesis of partial neutralization of one instinct by the other. Frequently, the act of the destruction of the self or part of the self is relegated to an outsider, a second person, as in certain cases of martyrdom or polysurgery, which can be traced to neurotic sources.

Thus, modern psychoanalytic theory supports Maimonides' explanation of the halakhic view on self-incrimination, an explanation which relies on the universality of the instinct of self-destruction. It is interesting to note that in the passage quoted above, Maimonides extends his psychological rationale for the law on self-incrimination to include cases involving either capital punishment or corporal punishment such as flogging. RaDBaZ²⁴ writes that it should be obvious that this explanation can only serve for a law involving capital punishment, but does not apply to confession for crimes punishable by flogging. This difference between Maimonides, in the literal readings of his decision, and RaDBaZ, recalls the essential difference between Freud's original theory and its expansion by Menninger. Evidently Maimonides intuitively grasped a more elaborate understanding of the Death Wish as manifesting itself also as a focalized or partial self-destruction, a refinement which obviously eluded RaDBaZ.

But the Halakhah, if we are to accept this psychological rationale as valid, goes even deeper than either Menninger or Maimonides dared in this respect. The psychoanalysts concentrate on suicide and focal self-destruction, that is, physical harm to the body. While they do refer to "moral masochism,"²⁵ to the love of suffering which comes from self-disparagement rather than destruction of the ego, from self-humiliation rather than self-mutilation, the concept is undeveloped and its exact nature is undefined.

Maimonides, too, does not go far enough in establishing the psychological rationale as the central and sufficient theme for the whole halakhic construction of the law on self-incrimination. Maimonides confines his explanation to cases of death and flogging, which he codifies in the Laws of Sanhedrin.²⁶ But the original Talmudic Law on self-incrimination deals not with corporal punishment, but with self-incrimination per se—what we have referred to above as "moral masochism"—whose only effect is the disqualification of the confessant as a *bona fide* witness on the basis of *rasha* (transgressor). This latter law Maimonides mentions, not in the Laws of Sanhedrin, where he presents the psychological basis for the stricture against self-incrimination, but in Laws of Testimony (*Eidut*),²⁷ where the decision is mentioned without any explanation or reason. Obviously, Maimonides did not feel that the Death Wish, while sufficiently widespread to warrant its recognition by the Halakhah in the forms of suicide and focal self-destruction, is operative in cases of confession which result in no more than disqualification of the confessant as a witness in any future case.

Yet, if that reason has validity for the one case, it must prove valid for all cases of the Halakhah involving self-incrimination. And this is so only if we extrapolate, and maintain that the Death Wish expresses itself in more subtle ways than heretofore realized—namely, in the disparagement of the self, in sordid public confession, especially of the kind that has found expression in the writings and records of the more morbid self-confessed ex-Communists. Thus, the sado-masochistic Death Instinct operates not only by destroying or injuring the self

physically, but even by casting aspersions on one's own character and exposing the ego to opprobrium in public. A case in point is that of the man who, some time ago, staged a great show of his confession of guilt as a Communist, only to turn later and stage an even greater show by compounding his first confession with a second confession as a liar. There is still some doubt and controversy as to whether he is more Communist than liar. This much, however, is sure—his propensity for public confession is not without its deep psychological motives. The element of exhibitionism, which was so prominent in this case, is to be expected, according to Menninger,²⁸ as a natural concomitant of the masochistic expression of the Death Wish in any of its various forms. This extreme abuse of the self is to "moral masochism" what suicide is to physical masochism—the ultimate expression of the wish for death.

It is this broader view of the Death Wish and its universality that we recognize in the Halakhah, if its legal principle on self-incrimination is to have a psychological foundation. The Halakhah recognizes the introjected Death Wish as expressing itself on three levels: as complete physical self-annihilation, when the confession is to a crime punishable by death; as partial self-destruction, when the confession is to a crime punishable by flogging (these two recognized by Maimonides); and finally, as "moral masochism" when the confession results in *pesul eidut*, in the confessant's disqualification as a *bona fide* witness, due to his self-assumed status as *rasha*.

The Halakhah, then, is obviously concerned with protecting the confessant from his own aberrations which manifest themselves either as completely fabricated confessions or as exaggerations of the real facts. It recognizes the fact that, in Menninger's pregnant phrase which serves as the title of his book, from which we have drawn in this chapter, we often find "man against himself." While certainly not all, or even most criminal confessions are directly attributable, in whole or part, to the Death Instinct, the Halakhah is sufficiently concerned with the minority of instances, where such is the case, to disqualify all criminal confessions and to discard confession

as a legal instrument. Its function is to ensure the total victory of the Life Instinct over its omnipresent antagonist. Such are the conclusions to be drawn from Maimonides' interpretation of the Halakhah's equivalent of the Fifth Amendment.

Guilt

At this point it is, however, necessary to add one *caveat* with regard to Maimonides' psychological rationale. While we have attempted to show that it not only anticipates, but, if one accepts the Freudian premise, goes further than Freud in its understanding of the Death Instinct, it is not absolutely necessary to read Maimonides in quite such an orthodox Freudian fashion. Keeping in mind that contemporary psychiatrists, even psychoanalysts, have begun to express skepticism about Freud's elaborate structure of a Life versus Death Instinct, one may approach the Maimonidean rationale in a much less complicated form, and infer from his words merely that confession may be the result of excessive guilt feelings, incommensurate with the crime committed—if any.

Indeed, it was Freud himself who spoke to the legal profession about this very problem, and his words are valid without any reference to his more encompassing theory:

You may be led astray . . . by a neurotic who reacts as though he were guilty even though he is innocent—because a lurking sense of guilt already in him assimilates the accusation made against him on this particular occasion. You must not regard this possibility as an idle one; you have only to think of the nursery, where you can often observe it. It sometimes happens that a child who has been accused of a misdeed denies the accusation, but at the same time weeps like a sinner who has been caught. You might think that the child lies, even while it asserts its innocence; but this need not be so. The child is really not guilty of the specific misdeed of which he is being accused, but he is guilty of a similar misdemeanor of which you know nothing and of which you do not accuse him. He therefore quite truly denies his

guilt in the one case, but in doing so betrays his sense of guilt with regard to the other. The adult neurotic behaves in this and in many other ways just as the child does. People of this kind are often to be met, and it is indeed a question whether your technique will succeed in distinguishing such self-accused persons from those who are really guilty.²⁹

Subsequently, Freud observed that a "sense of guilt" may issue from "criminal intentions" rather than from an actual past misdeed, and that this may occur to so-called "normal" as well as neurotic individuals.³⁰ Another distinguished psychologist has stated that, "A severe sense of guilt can exist in the absence of one single overt act of hostility. A sense of guilt means a self-reproaching attitude, a self-accusatory one, a self-attacking one. . . . This is a universal phenomenon common to all of us."³¹ According to a paper read before the American Psychiatric Association in May 1968 by Dr. Herbert Spiegel, a defendant is capable of telling a self-damaging story by inducing a spontaneous trance state in response to the pressure of interrogation, and in this state incorporating suggestions into a signed confession.³² Now, while Maimonides clearly refers to one who is abnormal, his very use of this rationale for a law that has overall application would lend itself to this kind of interpretation.

Suspension of the Law

Before drawing any conclusions from the above in reference to the application of the self-incrimination principle in actual practice, it should be recalled that the Halakhah does make provision for emergency suspension of the exemption.³³ The law, as stated, applies to "normal" Sanhedrin procedure. The "government," however, and the Sanhedrin as a temporary measure, may accept self-incriminating testimony from a defendant. The exemption, then, is not absolute; but the ideal law is that which disqualifies confessions to a crime as a matter of principle.

Of course, this is an opening which may well turn into a

floodgate, and an elastic interpretation of "emergency" may transform the law into an abstract and impertinent piety. But one cannot, after all, legislate the wisdom requisite for society to determine, justly and prudently, the balance of forces between individual rights and the national weal. In the words of Judge Hofstadter:

... Viewed in its historic context it [the privilege] was intended to operate in a climate of controversy and should not be suspended whatever the frame of reference—any more than it may be expanded. A right that is effective only when not needed is scarcely a right at all.

The importance of the safety of the nation must not be underestimated; equally important is the more inclusive safety of a way of life which is based on principle and not expedience. Those who take the Fifth Amendment in vain for any purpose adulterate the moral integrity that is our birthright.³⁴

The Halakhah has permitted suspension of its rules in case of emergency, in order to ensure the survival of the people and the Halakhah itself, not only with regard to this particular law, but with regard to any of its principles, even those of Biblical force. The courts, Maimonides writes in codifying this legal rule,³⁵ may temporarily suspend either a positive or a negative Biblical commandment if they deem it necessary in order to encourage the people to keep their faith or to save a large number of people from being otherwise ensnared, even as a physician will amputate a limb of a patient in order to keep the patient alive. But, as one wise man suggested, the analogy itself serves to emphasize the procedure as one of last resort only; woe to the patient who chooses a surgeon who amputates before other, less drastic methods have been attempted! The abrogation of the Fifth Amendment because of Communists or because of crime-in-the-streets is tempting indeed; but is is a dangerous amputation not to be risked unless absolutely necessary.

POSTSCRIPT

The Noahide Laws

The thesis presented in this chapter, and the next one as well, has been criticized on the grounds that halakhic rules cannot be applied to non-Jewish legal situations, because the latter, according to the Halakhah, are governed by a different system known as Noahide Law. The latter consists of seven basic laws, "the seven commandments of the sons of Noah," which are considered universally obligatory except for Israelites who are covered by the generally more stringent Law of Moses, the halakhic code. The Noahide code includes not only the seven laws—basically, seven categories of laws rather than individual ones—but also a different penal system. According to the Halakhah, my critics argue, the principle that *ein adam meisim atzmo rasha* applies only to Israelites and is inoperative in Noahide Law, and hence the attempt to disqualify voluntary confessions in American law by borrowing from the Halakhah is illegitimate. The sources for this differentiation between Israelite and Noahide with regard to self-incrimination are *Sefer Haḥinnukh* (28, 192), Gen. R. (34:19), and J. T. *Kid.* (1:1).

In answer, let it be said, initially, that my words are an attempt at a comparative study for scholarly reasons, not a plea for a change in Constitutional Law so that it accord with halakhic theory and practice. Nevertheless, even scholarly studies may have consequences, and this essay was undertaken in the trust that jurists in general may wish to and can learn from the Halakhah.

Certainly this analysis should not be taken to mean that the Halakhah obligates Jewish and non-Jewish courts alike to invalidate the testimony of the defendant in criminal cases, so that, for instance, a religiously observant Jew appearing in a secular court and testifying on his own behalf would be in violation of the Halakhah. Any idea that American courts ought to operate according to strict halakhic procedure is far-fetched to the point of absurdity. Rather, it is my contention

that an enlightened legal system, not based upon revelation, will be open to suggestions, insights, experiences, and concepts from other legal systems, and that the Halakhah has not been sufficiently researched for this purpose. The Halakhah holds that Noahides, i.e., Gentiles, are not limited to the Seven Laws, but, with very few exceptions, may adopt any of the other many commandments to which Israelites are legally obligated.³⁶ This study of the Fifth Amendment is an effort to introduce an important halakhic rule to the non-Jewish world in that general spirit.

Nevertheless, if indeed the Halakhah refuses to apply the rule of *ein adam meisim atzmo rasha* to Noahides, does this not mean that the Halakhah has, in this instance, nothing at all to say to Constitutional lawyers and that, furthermore, not only is the Constitution not sufficiently liberal in comparison with the Halakhah, but that the privilege as presently formulated is halakhically invalid for non-Jews and hence ought to be repealed?

At least one-half of this question must be laid to rest at once. Even according to the strictest halakhic interpretation of the Noahide law on self-incrimination, a Noahide is *permitted* to testify against himself; under no circumstances is it conceivable that he be *required* to do so. At the very least, then, the Fifth Amendment, as it stands, would be fully in accord with the halakhic prescription for Noahide procedure.

As for the rest of the question, it should be pointed out that there is no unanimity of halakhic scholars on the question of voluntary self-incrimination of Noahides. It is true that the author of *Sefer Haḥinnukh*, mentioned above, permits confession for a Noahide. The other sources are far less clear. Thus, the passage cited from the Jerusalem Talmud indicates the same opinion only according to the interpretation of *Korbon Edah*; the other classical commentator on the J. T., *Penei Mosheh*, reads the same (three-word) passage so as to yield a completely different meaning. According to him, the law on self-incrimination is the same for Israelite and Noahide. Similarly, the reference to Genesis Rabbah is questionable. There are several versions, some of which point in one direction, some

in another.³⁷ More explicitly in favor of banning self-incrimination for Noahides is Meiri³⁸ and the author of *Ḥamra Vehaye'i*.³⁹ Finally, a contemporary scholar, the late R. Meshullam Roth, of blessed memory, holds that Maimonides, too, would apply the prohibition of self-incrimination to Noahides.³⁹

The question of confession in the Noahide Code is thus in controversy amongst halakhic scholars. Perhaps the theories of the two opposing schools may be explained as follows: The Noahide Code is the universalist portion of the Torah, meant to apply to all mankind—save for Israel. The Law of Moses, the Halakhah, is the “particularist” code (hopefully without the pejorative connotations the word usually suggests), for Israelites only. Now, it has been suggested by R. Elijah Benamozegh⁴⁰ that, as a consequence of the different purposes of the two codes, the nature of their legislation differs. The Noahide Code is rational, and therefore applies to all men even as it governed the conduct of the Patriarchs and of the Israelites until the Covenant at Sinai. Rationality is of its essence. For this reason the Halakhah decides that a Noahide who transgressed is punished even if he was not forewarned; since the laws are rational, ignorance is no excuse.⁴¹ Mosaic law, however, is not rational but revelational. Intended for a particular, covenanted people, it surpasses, but includes, the universal-rational. The Torah comprehends these rational elements too, but combines them with the purely revelational, and offers them to Israel as one law, issuing exclusively from revelation. Hence, the Israelite is presumed to be ignorant of the law—any law—and punishment is contingent upon forewarning (*hatraah*).

In order to derive from the Halakhah those juridicial principles which apply to Noahides as well as to Israelites, we must therefore search in the Halakhah for rational values, those which do not issue from Scriptural decree or traditional, non-rational hermeneutic principles. Now, the controversy as to the applicability to Noahides of the rule *ein adam meisim atzmo rasha* may be said to turn on the question of the rationality of the rule. If we hold that it is logical, then it applies to Noahides too; otherwise, it is meant for Israelites only.

Legal philosophers and scholars, too, seem to be of two minds as to the inner rationality of the Fifth Amendment privilege. We have mentioned above the opinions of those who regard it as an expression of human dignity, of civilization, and so basic as to require no explanation.⁴² On the other side we may mention Justice Cardozo, who sees it as having value, but not as crucial to either liberty or justice. It is "not of the very essence of a scheme of ordered liberty. . . . Justice would not perish if the accused were subject to a duty to respond to orderly inquiry."⁴³ Judge Hofstadter, a strong advocate of the Fifth Amendment, writes quite openly that "it is not logical."⁴⁴

A problem, however, arises in interpreting Maimonides when using this criterion. Maimonides offers a rational explanation of the rule, but emphasizes that it is a "decree" of Scripture or the divine King. This involves a contradiction. If we are to accept his psychological explanation, we must conclude that the rule is rational and universally applicable. If, however, it is a "decree," then it is revelational and not rational, and governs only Israelites, not Noahides. The same contradiction exists for RaDBaZ. His metaphysical explanation makes the law rational, hence universal, but his ultimate reliance on decree (more pronounced in RaDBaZ than in Maimonides) makes it exclusive for Israelites.

It is possible, however, that Maimonides wrote his psychological rationale in order to demonstrate its universality, but declared it a decree in order to avoid modifying the law in practice amongst Israelites on the basis of its reason or motive.

To summarize, then, the value of a comparison of Halakhic and Constitutional Law does not depend upon the specific applicability of the rule to Noahides according to the Halakhah; and even then, there is sufficient halakhic warrant for the opinion that Noahides too are covered by the rule.

NOTES TO CHAPTER X

1. The original article on which this chapter is based appeared in *Judaism* (Winter 1956) and thereafter in *The Decalogue Journal*. The former was referred to by Chief Justice Warren in the case *Miranda v. Arizona* (1966), and quoted from the latter by Associate Justice Douglas in the *Garrity v. N. J.* decision (1967). The present chapter has been reworked from the original to include some additional background material, relevant data that has come to light in the intervening years, and comments on Noahide Law as a response to certain criticisms that I consider important enough to bring to public attention. The essential thesis, however, remains unchanged.

2. The most recent work on the subject is Aaron Kirschenbaum's *Self-Incrimination in Jewish Law* (New York: 1970).

3. Erwin N. Griswold, *The Fifth Amendment Today* (1955), p.1; William O. Douglas, *An Almanac of Liberty* (1954), p. 238. See too C. Dickerman Williams, "Problems of the Fifth Amendment," *Fordham Law Review*, Vol. XXIV, No. 1, Spring 1955; and Samuel H. Hofstadter, *The Fifth Amendment and the Immunity Act of 1954*, (1954).

4. Stephen, *History of the Criminal Law*, p. 325 f.

5. *Twining v. New Jersey*, 211 U.S. 78, 105-106. For further references on the origin of the privilege, see George Horowitz, "The Privilege Against Self-Incrimination—How Did It Originate?," in *Temple Law Quarterly*, Vol. 31, No. 2 (Winter 1958), pp. 121 ff.

6. Hofstadter, p.7.

7. *Supra*, n.5.

8. *Sanhedrin 9b, Ketubot 18b*. It should be added that while the Halakhah refuses to accord any status to the defendant's *testimony*, whether inculpatory or exculpatory, it does permit him to present arguments on his own behalf in the deliberations of the Sanhedrin (a minimum of twenty-three judges) trying him; see Mishnah, *Sanh.* 5:4; and cf. Maimonides *Hil. Sanh.* 10:8 and *Lehem Mishneh, ad loc.*; also Meiri to *Sanh.* 42a.

9. Griswold, p. 19. Hofstadter (p. 15) regards it as likely that in England, at the beginning, it was invoked more frequently by the innocent, but that in our own courts it is more usually invoked by the guilty. "But the fact remains, the imponderable is, that this is exactly what we intended."

10. Douglas (p. 239) writes that a person who seeks the protection of the Fifth Amendment "may ruin his reputation though he saves his neck."

11. Douglas, p.238.

12. Griswold, pp.7-7.

13. Hofstadter, p.15.

14. Quoted by Griswold, *loc. cit.*

15. *Sanhedrin 9b*.

16. It is interesting to observe the parallel between the attempts to offer explanations for the principle in Halakhah and in Constitutional Law. In the latter, the principle was accepted as a historic element, and then efforts were made to rationalize it (Hofstadter, pp.8-9, *supra*, nn.11,12). Similarly, the Halakhah is accepted as a legal datum, and after its formal exposition in the Talmud, attempts are made to find external explanations for it.

17. RaDBaZ to Maimonides, *Hil. Sanhedrin*, 18:6.

18. Cf. *supra*, Chaps. VI and VII.

19. *Hil. Sanhedrin*, 18:6.

20. Freud's statements concerning the Death Wish may be found in his following works: *New Introductory Lectures on Psychoanalysis*, p. 147; *Beyond the Pleasure Principle*; "Mourning and Melancholia" in *Collected*

Papers, Vol. IV, p. 156, Hogarth Press (London: 1925). A summary of Freud's views on this subject may be found in an essay by Paul Federn in *The Psychoanalytic Review*, April 1932, pp. 129-151.

21. Freud, *Beyond the Pleasure Principle*.
22. Freud, "The Psychogenesis of a Case of Homosexuality in a Woman" (1920) in *Collected Papers*, Vol. II, Hogarth Press (London: 1925).
23. Karl Menninger, *Man Against Himself*, p. 82 ff. Compare Maimonides' "marei nefesh" with Menninger, pp. 41-7, on melancholiacs.
24. On Maimonides, *Hil. Sanhedrin*, 18, 6.
25. Erich Fromm, *Escape from Freedom*, pp. 148, 149. See also Menninger, pp. 219 and 226.
26. Maimonides, *Hil. Sanhedrin*, 18: 6.
27. Maimonides, *Hil. Eidut*, 12:2.
28. Menninger, p. 67 and Fromm, p. 148.
29. Freud, "Psychoanalysis and the Ascertaining of Truth in Courts of Law" (1906), in *Collected Papers* (1959), Vol. II, p. 13.
30. Freud, *Criminality from a Sense of Guilt* (1915) in *Collected Papers* (1959), Vol. IV, p. 342; *The Ego and the Id* (1923), in *Complete Psychological Works* (1961), Vol. XIX, pp. 48ff.
31. Gregory Zilboorg, *The Psychology of the Criminal Act and Punishment* (1954), p. 50. Cf. Theodor Reik, *The Compulsion to Confess* (1959), pp. 32, 39, 41, 149, 266. For a detailed list of references to the literature on guilt feelings in a variety of contexts, see the decision of Chief Judge Bazelon of the United States Court of Appeals, *Miller v. U.S.*, 116 U.S. App. D.C. 45,320 F. 2d 767 (1963), n. 11. I am grateful to Prof. Alan M. Dershowitz for bringing this reference to my attention.
32. Reported in *Time* magazine, May 24, 1968.
33. Maimonides, *loc. cit.*, and *Hil. Melakhim*, 3:8, 10; 4:1, *et passim*.
34. Hofstadter, p. 34.
35. *Hil. Mamrim*, 2:4.
36. See Maimonides, *Hil. Melakhim*, 10:10.
37. See notes to Gen. R. 34:6, ed. Theodor.
38. *Bet Habehirah* to *Sanh.* 57b; see editor's notes.
39. To *Sanh.* 57b. The Talmud allows testimony by relatives in the case of Noahides but disqualifies a woman's testimony. Meiri similarly disqualifies those considered Biblically invalid (*pesul edut*). *Hamra Vehaye* explains that Noahides lack *yihus* (that is, their familial relationships are not considered a factor by the law) and thus testimony by relatives is no different from testimony by any other witnesses; whereas the *pesul edut* reverts to the same category as a woman's testimony: invalid for a Noahide as for an Israelite by Scriptural decree. Self-incrimination is to be classified with the latter. I suggest that this may be better understood in the light of *Sanh.* 9b, that a man is a relative unto himself and therefore his testimony is invalid. A relative's testimony is acceptable for a Noahide only because *yihus* is not taken into consideration by the law. However, this cannot possibly refer to one's relationship with himself; identity is not a matter of *yihus* and hence cannot be dismissed by the law as nonexistent. Therefore, self-incrimination is invalid as would be testimony by a relative were *yihus* recognized.
39. Responsa *Kol Mevasser*, II, 22:3.
40. *Israël et l'Humanité* (Hebrew trans., Yisrael Ve'ha-Enushut, [Jerusalem: 1967], p. 217).
41. *Ibid.*, p. 228.
42. *Supra*, nn. 11, 12, 14.
43. *Palko v. Connecticut*, 302 U.S. 319, 325-326.
44. Hofstadter, p. 29.

CHAPTER XI

PRIVACY IN LAW AND THEOLOGY

THE QUESTION OF privacy in contemporary society is a subtle and enormously complex legal problem, and one which also entails fundamental moral and theological dimensions. The social and political implications of the new surveillance technology have forced the issue of privacy upon the attention of the ordinary citizen, and have been dealt with in all three branches of the government of the United States.

The enormity of the threat posed by the new technology to the dignity and the liberty of the citizen, and the legal controls recommended, have been discussed widely in recent years, most notably by Professor Alan F. Westin, in a series of two articles for the *Columbia Law Review*, and by ex-Senator Edward V. Long, who headed the Subcommittee of the Senate Judiciary Committee dealing with the problem, in a book entitled, *The Intruders*. The exposé of the sophisticated, cheap, and easily accessible gadgets designed to destroy personal and corporate privacy should leave no doubt as to the magnitude of the danger. It is as a result of this gradual erosion of privacy, mostly by law-enforcement agencies, that the entire question of the legal and philosophical dimensions of privacy has entered the public forum.

As with all such questions, the problem admits of no easy and simple solution because of competing and, each in its own right, legitimate claims. Thus, law-enforcement officials, almost to a man, consider wiretapping and eavesdropping as indispensable weapons in the fight against crime, especially

consensual crimes and crimes of a continuing nature, such as espionage, kidnapping, gambling, prostitution, bribery, and narcotics. Opposed to this is the need to protect individual privacy without which people cannot think, associate, and live out their lives with the requisite freedom from the all-seeing eye of Big Brother. This conflict has been sharpened by the new technological advances which, as Professor Westin writes, have overtaken "the capacity to provide reasonable safeguards for individual and group privacy, a central assumption of man's social interaction since the dawn of civilization."¹

As a contribution to this discussion, we shall in this chapter analyze the views of classical Judaism, first halakhically and then theologically, on the issue of privacy, and attempt to demonstrate that many of the problems with which we are now wrestling were treated explicitly and analytically during the last three and a half thousand years in the Jewish tradition. Our major reference shall be to Judaism's highly developed legal code, the Halakhah, which was first systematized and redacted in the Mishnah (second century of the Common Era) and the Gemara (fifth century), both together comprising the Talmud. We shall, in the section dealing with Halakhah, confine ourselves to a general description of the Jewish law on privacy, and we shall not deal with emergency situations such as those arising from a threat to national security or ongoing crime.²

Legal History

In the United States, the right of privacy first became a public issue in 1761, when James Otis, representing Boston merchants, appeared in the Superior Court of Massachusetts Bay to protest the application of the Collector of Customs to enter and search any premises without any safeguard against abuses. Although Otis lost his case, it was "the first blow for freedom from England."³ It is the Fourth Amendment, ratified in 1791, that is usually considered the constitutional source for the protection of privacy. The amendment reads:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches

and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Fourth Amendment thus touches on the rights to privacy of the citizen—"the right of a person to be let alone."⁴ The question whether "unreasonable searches and seizures" refers only to tangible objects or also to information—thus affecting privacy—did not arise until later. Soon after the invention of the telegraph, wiretappers began intercepting messages, and effective measures for so doing have been with us since the 1890's.⁵ California passed legislation attempting to control such eavesdropping as early as 1862,⁶ although the first American case clearly recognizing privacy as a right in and of itself dates from the early twentieth century.⁷ The right has been traced to Roman law: there are references to it in the sixth-century Justinian Code and, earlier, in the writings of Cicero (and, as we shall see shortly, even earlier, in Biblical thought and law). "Personlichkeitsrecht" in German law, and "Geheimssphäre" in the Swiss codes were much in advance of Anglo-American law, and privacy was recognized in French law, although there was no special name for it.⁸ In England the Courts do not recognize a right of privacy, and there is no recognition of an enforceable right of privacy in the great commentaries of Blackstone or Kent, and none in the tracts written by the political philosophers of the seventeenth and eighteenth centuries.⁹ Its thorough consideration by the legal profession in the United States began with a famous law-review article by Samuel D. Warren and Louis D. Brandeis¹⁰ who insisted that privacy was an interest that man should be able to assert directly and not derivatively from his effort to protect other interests.¹¹

In the Bible

At the very beginning of the Biblical account of man, we are informed of the association of the feeling of shame, the reaction to the violation of privacy, with man's moral nature. Adam

and Eve ate of the fruit of the tree of knowledge of good and evil, after which "the eyes of them both were opened, and they knew that they were naked; and they sewed fig leaves together, and made themselves girdles."¹² The need to decide between good and evil gave man self-consciousness and a sense of privacy which was affronted by his exposure. The respect for physical privacy is again alluded to in the story of Noah and Ham.¹³ The abhorrence of exposure of what should remain concealed is evidenced in the Biblical idiom for illicit sexual relations: *giluy arayot*, literally, "the uncovering of nakedness." Rabbinic tradition discovers the virtue of privacy in the blessing uttered over Israel by the Gentile prophet Balaam: "And Balaam lifted up his eyes and he saw Israel dwelling tribe by tribe."¹⁴ What is it that he saw that so inspired him? The tradition answers: He saw that the entrances to their tents were not directly opposite each other, so that one family did not visually intrude upon the privacy of the other.¹⁵

Even more to the point is a specific commandment in the Bible which declares a man's home a sanctuary which may not be violated by his creditors: "When thou dost lend thy neighbor any manner of loan, thou shalt not go into his house to fetch his pledge. Thou shalt stand without, and the man to whom thou didst lend shall bring forth the pledge without to thee."¹⁶ "Thou shalt stand without" is the Biblical way of saying, "Do not violate the privacy of his home."¹⁷

In The Halakhah

The Halakhah differentiates between two forms of invasion of privacy: intrusion and disclosure.¹⁸

The first case of intrusion concerns the Biblical law just mentioned, that of the creditor desiring to seize collateral from the home of the debtor. The Talmud records two opinions as to whether this prohibition applies only to ordinary citizens acting on their own or also to the representative of the court; it decides that even the court officer may not invade the premises of the borrower to seize collateral.¹⁹ The courts are thus not permitted any invasion of privacy denied to private citizens; the only difference between them is that only by court

order may the borrower's possessions be seized forcibly outside his home.²⁰

The most important contribution of the Halakhah to privacy law, however, is not the problem of physical trespass but that of a more subtle form of intrusion: visual penetration of a neighbor's domain. This is termed *hezek re'iyah*, damage (*injuria*) incurred by viewing or prying.

"Visual Damage"

That such nonphysical invasion of privacy is proscribed we learn from the Mishnah which prohibits installing windows facing the courtyard of a neighbor.²¹ The question, however, is whether this prohibition is more than a moral exhortation and is legally actionable. Two contradictory opinions are recorded in the Talmud. One maintains that *hezek re'iyah* is not considered a substantial damage. The other opinion is that visual surveillance is considered a substantial damage. It is this second opinion, that holds visual penetration of privacy as tortious as actual trespass, that is accepted by the Halakhah as authoritative.²² Basically, this means that even in advance of actual privacy invasion, action may be brought to prevent such invasion from occurring. Thus, if two partners jointly acquired or inherited a tract of land, and decide to divide it and thus dissolve their partnership, each has the right to demand that the other share the expense of erecting a fence at least four cubits high, i.e., high enough to prevent each from spying on the other and thus violating his privacy.

Interestingly, the Halakhah does not simply permit one of the erstwhile partners to build a fence for his own protection, and then require his neighbor to share the expense because he, too, is a beneficiary, but demands the construction of the wall so that each prevents *himself* from spying on his neighbor. Thus, R. Nahman said in the name of Samuel that if a man's roof adjoins his neighbor's courtyard—i.e., the two properties are on an incline, so that the roof of one is approximately on level with the yard of the other—the owner of the roof must construct a parapet four cubits high.²³ In those days, most activity took place in the courtyard, whereas the roof was

seldom used. Hence, without the obstruction between them, the owner of the roof could see all that occurred in his neighbor's courtyard and, thus, deprive him of his privacy. This viewing is regarded as substantial damage, as if he had physically invaded his premises. Therefore, it is incumbent upon the owner of the roof to construct the wall and bear all the expenses, and so avoid damaging his neighbor by denying him his privacy. It is thus not the potentially aggrieved party, who would benefit from the wall, who has to pay for it, but the one who threatens to perform the intrusion.

Thus, the Halakhah insists upon the responsibility of each individual not to put himself into a position where he can pry into his neighbor's personal domain, and this responsibility can be enforced by the courts.²⁴

It should be added that while the discussion in the Talmud concerns visual access to a neighbor's domain, the principle may be expanded to cover eavesdropping as well. One prominent medieval commentator, R. Menahem Meiri,²⁵ decides that while we must guard against *hezek re'iyah*, visual surveillance, we need not worry about *hezek shemiyah*, aural surveillance. Hence, the wall the partners can demand of each other must be solid enough to prevent *overlooking* each other's affairs, but need not be so strong that it prevents *overhearing* each other's conversations. But the reason Meiri gives is not that eavesdropping is any less heinous than spying as an invasion of privacy, but that people normally speak softly when they think they will be overheard. Where this reason does not apply, such as in wiretapping or electronic "bugging," then obviously *hezek shemiyah* is as serious a violation and a damage as *hezek re'iyah*. All forms of surveillance—natural, mechanical, and electronic, visual and aural—are included in the Halakhah's strictures on *hezek re'iyah*.

The gravity of nonphysical intrusion is only partially evident from the fact that the Halakhah regards it as tortious, in that prevention of such intrusion is legally enforceable. More important is the fact that such surveillance is considered not only as a violation of civil law, but, what is more serious in the context of Judaism, it is considered as *issur*, a religious trans-

gression. Visual or aural invasion of privacy is thus primarily a moral offense, and the civil law and its requirement of monetary compensation is derivative from it.²⁶

It is instructive, therefore, that the discussion recorded in the Talmud on *hezek re'iyah* prefigured by many centuries—indeed, almost two millenia—the conflicting interpretations of the Fourth Amendment to the U. S. Constitution. The theory that visual penetration cannot be considered the equivalent of physical trespass finds its spokesman in Mr. Justice Black who, in his strict interpretation of the Constitution in his dissent in *Griswold v. Connecticut*,²⁷ and again in *Katz v. U.S.*,²⁸ fails to uncover anything in the Fourth Amendment forbidding the passage of any law abridging the privacy of individuals. The opposite point of view, which considers *hezek re'iyah* as substantial damage, was expressed by Justice Brandeis,²⁹ Justice Douglas,³⁰ and most recently by Justice Stewart speaking for the majority of the Court.³¹ Until this last decision, the judgment of the Halakhah resolving the dispute in the Talmud in favor of holding nonphysical violation of privacy to be an actionable damage, i.e., equivalent to actual trespass, had not been fully adopted by the Supreme Court, which had to a large extent let the majority decision in *Olmstead* (in which the Court was closely divided) remain as the interpretation of the Fourth Amendment, while considering most questions of privacy, such as wiretapping, under Section 605 of the Federal Communications Act of 1934.³² In July of 1967 Attorney General Ramsey Clark issued a memorandum anticipating the decision of the Supreme Court that, even in the absence of physical trespass, any electronic eavesdropping on conversations is in violation of the Fourth Amendment. Later that year the Court, in the *Katz* decision, with the notable dissent of Justice Black, held that the Fourth Amendment “protects people, not places,” and reversed itself on *Olmstead*, holding that there was no constitutional significance attached to physical penetration in electronic eavesdropping, and that all wiretapping or bugging is proscribed by the Constitution even without trespass. American law has thus just recently developed

and accepted a right of privacy long acknowledged in Jewish law.

Disclosure

The Halakhah considers intrusion and disclosure as two separate instances of the violation of privacy. Interestingly, the Biblical commandment concerning forced entry by the creditor into the debtor's home to secure a pledge—a case of intrusion—is immediately preceded by the commandment to remember the plague that afflicted Miriam who was thus punished for speaking ill of Moses to their mutual brother, Aaron—a case of disclosure.³³

The law against disclosure is usually divided into three separate parts: slander (i.e., false and defamatory information), talebearing, and gossip. The last term refers to the circulation of reports which are true; the "evil tongue" is nevertheless forbidden because it is socially disruptive, since it puts the victim in an unfavorable light. However, in its broadest and deepest sense disclosure is not so much an act of instigating social disharmony as the invasion of personal privacy. Thus, the Mishnah teaches that, after a trial presided over by more than one judge, each of them is forbidden to reveal which of the judges voted for acquittal and which for conviction.³⁴ The Talmud relates that the famed teacher R. Ami expelled a scholar from the academy because he revealed a report he had heard confidentially twenty-two years earlier.³⁵ Information received confidentially may not be disclosed even if it is not damaging or derogatory as long as the original source has not expressly released it.³⁶ Even if the original source subsequently revealed this information publicly, the first listener is still bound by the confidence until released³⁷—a remarkable example of the ethics of information. Unauthorized disclosure, whether the original information was received by complete consent or by illegal intrusion, whether ethically or unethically, remains prohibited by the Halakhah.

Protection of the Mail

We have discussed so far two kinds of intrusion, visual and

aural. But the Peeping Tom and the eavesdropper are not the only kinds of practitioners of this "dirty business," as Justice Oliver Wendell Holmes called it, with which the Halakhah is concerned. Another form of invasion of privacy is reading another's mail. Letters sent through the mail are protected by the Fourth Amendment, according to a Supreme Court ruling in 1877—although a special bill had to be passed by Congress in 1965 specifically exempting the mail from the levy power of the Internal Revenue Service. In Halakhah, a law protecting the privacy of mail was enacted a thousand years earlier, by R. Gershom, "The Light of the Exile"; the decree might well be older than that.³⁸

Polygraphs

The polygraph, or lie-detector, is not accepted by most courts in either criminal or civil proceedings; yet, about 200,000 to 300,000 tests are conducted annually by government and business.³⁹ Although one would not normally expect so modern an invention to be treated by the Halakhah, an eminent contemporary scholar, my sainted grandfather, Rabbi Yehoshua Baumol (d. 1948), has written a comprehensive responsum on the problem.⁴⁰ He points to an ancient Jewish legend which speaks of a kind of lie-detector device that was used in King Solomon's court.⁴¹ He concludes that the polygraph may not be used to determine the credibility of witnesses in criminal cases, and may be utilized on witnesses in civil cases only where the court has good reason to suspect them of lying. (The defendant himself can never be subject to the polygraph in criminal cases, since the Halakhah does not accept even voluntary confessions.)⁴² However, in certain special civil cases the use of the machine to test the defendant may have limited validity, but only where it is requested by the defendant.

The question turns on the concept of *hosmin*—unwarranted belligerence by the judges towards the witnesses—which results in intimidating them, and the use of the polygraph representing such intimidation.⁴³ The Halakhah thus offers support for the hesitation of most American judges in using this device, and there is good reason not to encourage or even permit its use

in government or industry, except where the employee is brought up on specific charges and where he requests its use. Under all conditions, provisions ought to be made to avoid any inference of guilt of employees who refuse to take the lie-detector test, for this is then a form of coerced self-incrimination.⁴⁴ But even under the best of conditions and with all safeguards now available, one can sympathize with Senator Long's reference to the polygraph as a "psychological black-jack" and a "dubious instrument of Inquisition."⁴⁵ This is more than an invasion of one's home or speech; it is an intrusion into the very heart and mind.

National Data Center

Certain government officials have proposed a computerized data bank which will contain all the vital data on all citizens of this country. We must grant that his proposal issues in good faith and from benevolent motives. Yet it is frightening to contemplate the enormous implications of such a bank for the preservation of what precious privacy is left to us in our crowded planet and even more crowded cities. One cannot, I believe, find any technical halakhic objection to such a national data center; but the whole sense of Jewish law and universal morality must reject such a plan as abhorrent and its intended benefits as not worth the damage, both potential and actual, it is capable of causing. One should consider, as but one example of such potential perils, the proliferation of "personality tests" now more or less regularly administered in industry, the ministry, government, etc. Imagine if the answers to the incredibly intimate, dangerous, and silly questions which examiners use to probe the psyches of their reluctant and coerced candidates—and the often questionable methodology employed to evaluate these answers—will be fed into such a giant master-bank. Society, including industry and government, will have succeeded in weeding out our most assertive, original, and individualistic citizens, and the established authorities will have managed to entrench themselves in self-perpetuating power over their placid employees and sub-

ordinates, whose lives will be an open book for any zealous inquirer. Justice Douglas has stated the case quite bluntly:

If we get a police state without a data center, the police state will be the first to create one. If we get a data center first we are well on our way to subordinating everyone to bureaucratic surveillance, to police surveillance, to political surveillance. Then we become serfs in the new feudalism that has overtaken us.⁴⁶

What we are confronted with is an automated "evil tongue," institutionalized gossip computerized for instant character assassination. Perhaps in the beginning, as some of its well-intentioned advocates have suggested, no confidential information will be fed into this data bank. But if the mechanism exists, then we may be sure that, by some as yet undiscovered law that issues from the depths of human and social perversity, all kinds of information will be forthcoming in an attempt to satisfy its insatiable appetite for more and more facts, regardless of their relevance, need, or accuracy.⁴⁷ Certainly the desire for bureaucratic efficiency and technological novelty ought not to force us to create a monster than can be put to the most sinister use and that may constitute a threat to every citizen of this country, resulting in what has been called a "Dossier Dictatorship."⁴⁸

Privacy as a Duty

The Halakhah's civil law thus protects privacy even against visual and aural surveillance and other forms of nonphysical trespass, and implies the legal obligation of the citizen, at his own expense, to curb his curiosity from violating his neighbor's domain of privacy.

But the Halakhah comprises more than civil law; it includes a high moral code. And its legal limit on voyeurism is matched by its ethical curb on the citizen's potential exhibitionism. It regards privacy not only as a *legal right* but also as a *moral duty*. We are bidden to protect our own privacy from the eyes and ears of our neighbors. The Talmud quotes Rav as pointing out a contradiction between two verses. David

says, "Happy is he whose transgression is concealed, whose sin is covered," whereas Solomon states, "He that covereth his transgressions shall not prosper."⁴⁹ One of the two solutions offered by the Talmud is that David discourages the revealing of sins not publicly known; here the atonement should be pursued privately, only between man and God. Solomon, however, encourages the public acknowledgment of sins that are already widely known. What is not known to others I may not reveal about myself. A man has the moral duty to protect his own privacy, to safeguard his own intimacies from the inquisitiveness of his neighbors.⁵⁰ The Talmud records an opinion that once a man has confessed his sins to God on the Day of Atonement, he should not confess them again on the following Yom Kippur—and applies to one who does so the verse, "as a dog that returneth to his vomit."⁵¹ These are strong words, and they reveal to us the contempt of the Rabbis of the Talmud for the indignity inherent in the loss of privacy—even one's own privacy, and even before his Maker only.

That it should be necessary to exhort people to protect their own privacy may seem astounding; yet never was it more relevant than today. For as contemporary society becomes more complex, as people become more intertwined with each other, and as the country becomes increasingly urbanized, privacy becomes more and more precarious.⁵² Electronic intrusion has now been developed to a high art and constitutes a grave menace to society. Technologically, man now has the ability to destroy privacy completely and forever. Yet despite this danger, the public does not seem to be overly exercised. There does not seem to be enough indignation over the fact that even the President and senators and other leaders of the nation feel that their offices are being "bugged," and that surveillance technology now threatens to strip every potential victim of his very selfhood without even a psychological fig leaf to cover his moral nakedness. We seem to have become conditioned by the psychiatrist's couch, and especially the vulgarization of pop-psychiatry, to accept the baring of our souls to anyone who is interested in us. We are, as someone once put it, the Generation of the Picture Window, who desire as much that others

look into us as that we look out at them. The concept of privacy is thus an urgent moral duty.

Theological Background

The Halakhah's legal and moral doctrines of privacy can be shown to be based upon certain fundamental theological considerations. The Bible teaches that man was created in the image of God,⁵³ by which is meant that the creature in some measure resembles the Creator, and which implies the need by man to imitate God: "as He is compassionate and gracious, so must you be compassionate and gracious."⁵⁴ Now, both the Jewish philosophic and mystical traditions speak of two aspects of the Divinity: one is the relatedness of God to man, His knowability; and second, His Essence and absoluteness in which He infinitely transcends and remains forever unknown to man. These two areas of "light" and "darkness," the two zones of disclosure and concealment, of revelation and mystery, coexist within God without contradiction.⁵⁵ The unknowable Essence or Absoluteness is the inner boundary of God's privacy. In His resistance to and limitation of man's theological curiosity and metaphysical incursions,⁵⁶ God asserts His exclusive divine privacy. Even Moses may not gaze upon the Source of the voice that addresses him.⁵⁷ The Mishnah declares that one who is disrespectful of the divine dignity by seeking to penetrate into divine mysteries beyond his ken, it were better had he not been born.⁵⁸ "Dignity" (*kavod*) is thus a correlative of privacy.⁵⁹

But if this is true of the Creator, it is true of His human creature as well. As God reveals and conceals, so man discloses and withholds. As concealment is an aspect of divine privacy, so is it the expression of human privacy: the desire to remain unknown, puzzling, enigmatic, a mystery. Judaism does not absolutize privacy; taken to an extreme, it results in the total isolation of man and transforms him into a closed monad. Without any communication or self-revelation, he must suffer veritable social, psychological, and spiritual death. But the other extreme, unlimited communication and the end of privacy, leaves man totally depleted of self—again death.⁶⁰ For both God and man, therefore, in that they share the character

of personality, there must be a tension and balance between privacy and communication, between concealment and disclosure, between self-revelation and self-restraint.

This sense of privacy may be referred to the ethical quality of *tzeniut*, which usually is translated as "modesty." But *tzeniut* means more than modesty in the moral or sexual sense. By extension, the term comprehends respect for the inviolability of the personal privacy of an individual, whether oneself or another, which is another way of saying, respect for the integrity of the self. Man is fundamentally inscrutable in that, according to Judaism, he is more than just *natura* but also *persona*: he is possessed of a mysterious, vital center of personality which transcends the sum of his natural physiological and psychological properties. But not only *is* he mysterious, he also *should* be, and the extension of this free and undetermined center of personality constitutes the boundaries of his selfhood and hence his privacy. It is this privacy which we are called upon to acknowledge as an act of *tzeniut*.

"It hath been told thee, O man," says the prophet Micah,⁶¹ "what is good and what the Lord doth require of thee: only to do justly, and to love mercy, and to walk *humbly* with thy God." The Hebrew for "walk humbly" is *hatzneia lekhet*, the first word deriving from the same root as *tzeniut*. Man must tread the path of reverent privacy "with thy God," for it is from Him that we learn this form of conduct and Whom we imitate in practicing it.

So sacred is this center of privacy in man that even God does not permit Himself to tamper with it; that is the meaning of the freedom of the will, the moral autonomy of man. And that is why God's "hardening of Pharaoh's heart"⁶² became an ethical and philosophic problem for rabbinic exegesis of the Bible. Certainly, then, it is criminal for man to attempt such thought control, even if benevolent.

CONCLUSION

Indeed, it is personality itself which is at stake. *Persona* meant, originally, a mask. We change masks as we react to different stimuli and encounters, and the sum of these poses

and postures is our personality. The *persona* or mask is the mode of our self-disclosure, the highly meaningful medium of our communication to the outside world. Without it we are both naked and dumb. In the absence of privacy we are stripped of such masks, and this process leads, ultimately, to the extinction of personality. Unfortunately, therefore, the current affronts to privacy harmonize with the trend towards the depersonalization of life in contemporary society.

In sum, we have seen that Judaism asserts that man, in imitation of God, possesses an inviolate core of personality, and that privacy constitutes the protection of this personality core from the inroads of society and the state. The earliest legislation on privacy goes back to the Bible. In the Halakhah, which underwent its most creative development between 2000 and 1500 years ago, the right of privacy was legally secured in a manner as or more advanced than that which prevails in contemporary Constitutional law: nonphysical intrusion was considered the equivalent of actual trespass. The Halakhah's concept of privacy covers both intrusion and disclosure, visual and aural surveillance, tampering with the mails, and, to the largest extent, the use of the polygraph. The spirit of Jewish law rejects the idea of a national data bank. It is understood that in all these instances, the right to privacy is not absolute;⁶³ for instance, such rights would automatically be suspended where there exists a grave threat to national security.⁶⁴ But privacy is more than a legal right; there is also a moral duty for man to protect his own privacy.

In a famous passage, the teachers of the Mishnah counseled man on how to avoid sin. They said, "Know what is above you: a seeing eye, a hearing ear, and a book in which all your deeds are recorded."⁶⁵ For moderns, who have become the easy victims of both the sinister designs of the professionals of intrusion and the frivolous self-indulgence of the amateurs, that sage advice should be paraphrased to counsel us on how to avoid the breakdown of our privacy: "Know at all times what is above you and below you, in front of you and in back of you: a seeing eye and a hearing ear—not of God, but of man's electronic gadgets—and a magnetic tape on which all your

words are recorded." That awareness and that sensitivity are the moral and psychological background for successful legislation and for interpretations of the right to privacy by the courts. And they will have been largely anticipated by Jewish law. "Observe therefore and do them; for this is your wisdom and understanding in the sight of the peoples, that when they hear all these statutes shall say, 'Surely this great nation is a wise and understanding people'" (Deut. 4:6).

NOTES TO CHAPTER XI

1. Alan F. Westin, "Science, Privacy, and Freedom: Issues and Proposals for the 1970's," *Columbia Law Review*, Vol. 66 (1966), 1003, 1009.

2. See in the preceding Chapter, the section entitled, "Suspension of the Law." The problem of reconciling the right of privacy with the need to protect the national security was dealt with by the Supreme Court in *Katz v. U.S.*, especially in the concurring opinions of Justice White and Justice Douglas.

3. Edward V. Long, *The Intruders: The Invasion of Privacy by Government and Industry* (New York: 1967), p. 26.

4. Cooley, *Torts* (4th ed., 1932), Sec. 135.

5. R. Kent Greenwalt, "Wiretapping, Bugging: Striking a Balance Between Privacy and Law Enforcement," *Law Alumni Bulletin* (Columbia Law School) Vol. IX, No. 3, Summer 1967, p. 16.

6. *Ibid.*

7. *Pavesich v. New England Life Ins. Co.*, 122 Ga. 190, 50 S.E. 68 (1905). Previously, in 1855, a New York court enjoined the publication of private letters solely on the grounds of infringement of property rights, not because of the principle of privacy.

8. Samuel H. Hofstadter, *The Development of the Right of Privacy in New York* (New York: 1954), pp. 2, 3.

9. Hofstadter, p. 4.

10. Warren and Brandeis, "The Right to Privacy," *Harvard Law Review*, Vol. 4, p. 193 (1890).

11. Cf. William B. Beaney, "The Right to Privacy and American Law," *Law and Contemporary Problems*, Vol. 31, p. 257.

12. Gen. 3:7.

13. Gen. 9:20-27. See Milton R. Konvitz, "Privacy and the Law: A Philosophical Prelude," *Law and Contemporary Problems*, Vol. 31, p. 272.

14. Numbers 24:2.

15. *B.B.* 60a. Thus, the end of the verse, "and the spirit of God came upon him" (Num. 24:2), refers to Israel, not Balaam.

16. Deut. 24:10, 11. However, this holds true only for civil cases. In criminal cases there is no sanctuary; thus, Ex. 21:14.

17. "For by entering [by force] and viewing the interior of his home, he will feel humbled and ashamed." R. Joseph Bekhor Shor, commentary to this verse.

18. These are two of the four categories within the concept of privacy as analyzed by Dean Prosser, "Privacy," *California Law Review*, Vol. 48, p. 383 (1960).

19. *B.M.* 113a,b. Maimonides, *Hil. Loveh Umalveh*, 3:4. This prohibition applies to the case of a lender who failed to secure collateral at the time of the loan but seeks it as security now before the time of the loan has expired. When, however, the money is owed not because of a loan, but as wages or rental, entry is permitted: Baraita in *B.M.* 115a, as against Sifre; Maimonides, *ibid.*, 3:7. The latter category includes the return of stolen articles; commentaries to *Shulhan Arukh*, *Hosh. M.* 97:14. The difference is this: a loan was meant to be spent by the borrower, and hence forced entry to secure collateral is an illegitimate invasion of the privacy of his home. But articles that are stolen or wages that are withheld do not belong even temporarily to the one now in possession, and entry and seizure in such a case, therefore, outweigh the concern for and respect of privacy.

20. Maimonides, *ibid.*, 3:4.

21. *B.B.* 3:7. The Mishnah speaks only of the courtyard of partners, but its intention is to prohibit opening windows *even* into a partner's courtyard, certainly that of a stranger; so in the Gemara, *B.B.* 59b. Judge Hofstadter (*op. cit.*, p. 2) was, to my knowledge, the first to point out that the Talmud anticipated Warren and Brandeis on privacy as a right by some seven centuries.

22. *B.B.* 2b, 3a, *et passim*. Maimonides, *Hil. Shekhenim*, 2:14. Our thesis is strengthened by the following consideration that emerges from the relevant Talmudic discourse (at the beginning of *B.B.*): even those who hold that *hezek re'iyah* is not an actionable tort agree with the basic principle prohibiting visual violation of privacy. Thus, in such cases as a fence which fell and must be rebuilt, and the need for an adequately high parapet on a roof immediately adjoining a courtyard, the Talmud unanimously considers that provision must be made to protect the potential victim from visual surveillance. The principle is this: where one has already disported himself uninhibitedly in an area on the assumption that his privacy is intact (as: where his yard was protected by a fence) or where he cannot make any private use of his property because he has no way of knowing when he is being spied upon (as: when another's roof adjoins his yard), all agree that his claim is actionable; the invasion of privacy, although no physical trespass occurred, is considered a tort. The controversy on *hezek re'iyah* arises only in such cases where the plaintiff *can* determine when his neighbor is in a position to spy upon him, and is able to protect himself by retreating to a safe area, and has *not yet* established a pattern of conduct that would make such inhibition unlikely. However, the necessity for such caution is inconvenient, and it also diminishes the value of his property because he cannot pursue all his private affairs without restraint. Here one school holds that the *hezek re'iyah* is tortious and actionable, and the other holds that because the victim can avoid the disruption of his privacy, the *hezek re'iyah* is not an actionable tort; we do not consider his inconvenience a monetary damage. It is therefore evident that both Talmudic schools will consider the great majority of instances of privacy invasion under discussion today as tortious and actionable in a court of law.

23. *B.B.* 6b.

24. On the moral background of this law as an outgrowth of the rabbinic concept of the sanctity of the individual, see Samuel Belkin, *In His Image*, Abelard-Schuman (London, N. Y., Toronto) pp. 126-128.

25. *Bet Ha-behira* to *B. B.*, ed. Sofer, p. 6.

26. *Nimukei Yosef* to *B. B.*, ch. III (60a). At least one commentator has attempted to distinguish legally between the moral and monetary aspects of the offense. Thus one author (quoted in *Likkutim* to Mishnah *B. B.* 3:7, interpreting RaSHBaM) differentiates between *hezek re'iyah* as a tort and *tzeniut*, modesty, as a moral principle. In the case of the former, if the plaintiff had not complained for a period of three years during which there obtained a condition of the violation of his privacy, we assume that he has waived his rights, and his claim is dismissed; thus the law of viewing a neighbor's courtyard, where he may carry on his business. In the latter case, since we are dealing with a moral rather than a civil or proprietary right, no presumption of waiving is ever established, no matter how much time has elapsed since the protest could have been made but was not; thus the law of installing a window with direct access to the window of a neighbor. See Nahmanides to *B.B.* 59.

27. 381 U.S. 479, 507 (1965).

28. *Supra*, n.2.

29. In his law review article, *supra*, n. 10, and in his dissent in *Olmstead v. United States*, 277 U.S. 438, 471 (1928). In the case of visual and aural violation of privacy, as we have seen, the Halakhah had already established this right as non-derivative; on the other forms of intrusion, see later.

30. *Groszold v. Connecticut*, 381 U.S. 483-85, *et passim*.

31. In *Katz*, *supra*, n.2.

32. Yet according to the interpretation of Attorney General Jackson, in a letter to Congress in 1941, Sec. 605 does not forbid wiretapping as such but only the divulging of the contents of such eavesdropping.

33. Deut. 24:8-9, referring to Num. 12:1-15. Rabbinic tradition thus associates the ailment of *tzaraat* (commonly mistranslated as leprosy) with slander and gossip.

34. *Sanhedrin* 3:7.

35. *Sanhedrin* 31a. Cf. *Maḥatzit ha-Shekkel to Sh. A., Oraḥ Ḥayyim* 156.

36. *Yoma* 4b.

37. *Magen Avraham to Sh. A., Or. H.* 156:2; *Ḥafetz Ḥayyim*, 10:6.

38. Louis Finkelstein, *Jewish Self-Government in the Middle Ages*, pp. 171 ff., 178, 189.

39. Long, p. 159.

40. Responsa *Emek Halakhah* (New York: 1948) II, No. 14.

41. *Yalkut Shimoni* to Esther 1:1046.

42. See preceding chapter on "Self-Incrimination."

43. *Sanhedrin* 32a, b.

44. Cf. *Garrity v. New Jersey*, 17 L. Ed. 2nd 562 (1967).

45. Long, p. 220.

46. William O. Douglas, in an address to the American Civil Liberties Union, San Francisco, Calif., May 20, 1967 (printed in *Vital Speeches of the Day* [September 1967], p. 704).

47. Cf. Robert M. Hutchins, *Two Faces of Federalism* (1961), p.22.

48. Prof. Arthur R. Miller, in testimony before the Senate Subcommittee on Constitutional Rights; *N.Y. Times*, February 24, 1971.

49. Ps. 32:1, according to rabbinic interpretation and Prov. 28:13.

50. *Yoma* 86b.

51. Prov. 26:11.

52. Perceptive observers have seen in the characteristic impersonality and anonymity of apartment-house dwellers in our great urban centers a vital defense mechanism against the encroachments on their privacy. See, for instance, the discussion in Harvey Cox, *The Secular City*, pp. 29-46.

53. Gen. 1:26, 27.

54. Mekhilta to *Beshalah* 3: *Shab.* 133b. Most of Jewish ethics is predicated on this idea of *imitatio Dei*. See *supra*, chapters 6 and 7.

55. Thus, *Ḥag.* 12b, 13a, reconciling Ps. 18:12 and Dan. 2:22.

56. "In what is wondrous for thee thou shalt not inquire, and in what is hidden from thee thou shalt not seek"—Ben Sira.

57. Ex. 3:6.

58. *Ḥag.* 2:1, according to Jerusalem Talmud (*Ḥag.* 2:1-8b) which considers the two items in the Mishnah, theosophic overreaching and offense against the dignity of God, as one.

59. Thus, R. Menahem Mendel of Lubavitch (*Derekh Mitzvotekha*, p. 59) applies the term *giluy arayot*, normally reserved for sexual immorality, to the exposing of what is and should be private, secret, and mysterious in the Kabbalistic sense.

60. The same holds true, *mutatis mutandis*, of our conception of God. Denial of either of these poles results in a denial of personality to God. Belief in an uncommunicative, deistic God is, as Schopenhauer put it, a

polite atheism. And the assertion of a God who has dispossessed Himself of His transcendence, who has exhausted and dissipated His privacy, is a rather impolite atheism—the atheology of those who proclaim that His life has come to an end.

61. Micah 6:8.

62. Exod. 4:21, 7:3, *et passim*.

63. On the rights of privacy versus the claims of history, see my article on "The Private Lives of Public Figures," in *Jewish Life* (January-February 1967), pp. 7–10, 15, 16.

64. *Supra*, n.2.

65. *Avot* 2:1.